

STATE OF CALIFORNIA

MEETING OF THE

CALIFORNIA INSPECTION & MAINTENANCE REVIEW

COMMITTEE

Tuesday, February 22, 2005

California Department of Consumer Affairs

400 R Street, First Floor Hearing Room

Sacramento, California



Northern California Court Reporters

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MEMBERS PRESENT:

VICTOR WEISSER, CHAIR
PAUL ARNEY
TYRONE BUCKLEY
DENNIS DeCOTA
JOHN HISSEIRICH
BRUCE HOTCHKISS
JUDITH LAMARE
ROBERT PEARMAN
JEFFREY WILLIAMS

ALSO PRESENT:

ROCKY CARLISLE, Executive Officer
LYNN FORSYTH, Administrative Staff

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We have an agenda today that I think we'll find tries to focus in on the work that lies ahead of the IMRC over the next several months, and we'll be getting some status reports on some of the work that we mentioned at our last meeting and reviewing in a little bit more detail and taking a little more time than we were able to at our last meeting in kind of divvying up our workload associated with what we've decided to try and get done.

MEMBER ARNEY: Paul Arney.

CHAIR WEISSER: I'm Vic Weisser, the Chair.

MEMBER DECOTA: Dennis DeCota.

1 MEMBER WILLIAMS: Jeffrey Williams.

2 MEMBER LAMARE: Judith Lamare.

3 MEMBER HISSERICH: John Hisserich.

4 - ooo -

5 CHAIR WEISSER: Excellent. The first thing
6 on our agenda, as normal, is the approval of minutes
7 for the meeting of January 25th, 2005. It says 2004 on
8 the agenda. And I'm presuming everyone has had a
9 chance to read the summary minutes and if there are any
10 comments or suggestions for corrections, please make
11 them now. Hearing none, is there a motion for adoption
12 of the minutes?

13 MEMBER DECOTA: Dennis DeCota, so moved.

14 MEMBER HISSERICH: I'll second.

15 CHAIR WEISSER: Okay, Mr. DeCota moves,
16 Mr. Hisserich seconded. Is there any discussion? I
17 saw a hand in the audience. Mr. Armstrong.

18 MR. ARMSTRONG: Yes, Mr. Chairman, my name is
19 Larry Armstrong. I just did a speed read on this and
20 it may be in there, but in the transcript that I read
21 of the last meeting, I wasn't able to attend the last
22 meeting, but it seemed like there was a quite
23 vociferous discussion in there with the chief of the
24 BAR with some what appeared to be some fairly
25 derogatory comments by the chairman and at least one

1 member of the Committee, and I was wondering if that
2 information was going to be included in the minutes.
3 If it isn't, I'd like to see it in there.

4 CHAIR WEISSER: Thank you for your input,
5 Mr. Armstrong. I will respond thusly. The comments
6 that you heard from the chairman, who is me, and other
7 members of the Committee were not derogatory, they were
8 statements of concern and indeed of certain questions
9 associated with policy differences, but they were
10 offered, I believe, I know mine were and I'm certain
11 those of other Committee members [skip] believer in
12 good government, and it was on those issues that
13 discussions took place. I want to make it clear they
14 were in no way intended to be derogatory.

15 I think the working relationship that we have
16 with BAR management has been pretty good and I'm sure
17 it will continue, and the same can be said for the Air
18 Resources Board. While we may have policy differences,
19 that's the purpose for having this sort of opportunity,
20 this public opportunity to discuss differences that
21 might exist between different people with different
22 views on the program.

23 In terms of including the specifics
24 associated with that and every other item that was
25 discussed during the meeting, we determined long ago, a

1 year or a year and a half ago, that it would be
2 infeasible for us to attempt to make these minutes
3 anything more than a summary of what's taken place, and
4 rather than us attempt to interpret peoples' remarks
5 and to write them up in cogent order, we thought it was
6 best if we just put a summary out and directed people
7 to the detailed transcript if they wanted to find out
8 more in terms of content.

9 Are there any other comments from the
10 audience? Seeing none, we'll ask for a vote on the
11 measure. All in favor of adopting the summary minutes
12 please signify by saying aye.

13 IN UNISON: Aye.

14 CHAIR WEISSER: Are there any opposed?
15 Hearing none, the minutes are thus adopted.

16 - ooo -

17 The next item on our agenda is a report from
18 our Executive Officer, Rocky Carlisle.

19 Mr. Carlisle.

20 Could I ask everyone to please silence their
21 cellphones? Thank you.

22 Rocky?

23 MR. CARLISLE: Good morning, Mr. Chairman,
24 members of the Committee. A couple things I want to
25 talk about. One is, as far as activities this month,

1 we sent out the IMRC report, we sent out over 200
2 copies on February 2nd. Actually, they went out on
3 February 2nd and 3rd. A press release was sent out the
4 same day and the press release went out to 14 different
5 newspapers. Only one has called and so far I have not
6 seen where they've picked it up and reported on it, and
7 that was the *Stockton Record*.

8 There are a couple items remaining from the
9 previous meeting that I still don't have answers on,
10 primarily because I haven't taken the time to pursue
11 them.

12 CHAIR WEISSER: Excuse me, Mr. Carlisle, let
13 me interrupt you. There was an article in *Inside*
14 *Cal/EPA* that tried to summarize some of the issues
15 associated with last week's [sic] meeting, I wanted to
16 point that out. *Inside Cal/EPA* is a weekly newsletter
17 that covers environmental issues.

18 MR. CARLISLE: I'll see if I can't get a copy
19 of that. I do have a copy of it but I don't know if
20 there's copyright infringement if we distribute that.

21 CHAIR WEISSER: That's fine.

22 MALE VOICE: (Inaudible)

23 MR. CARLISLE: Okay. From last month the
24 question was asked does BAR need legislative authority
25 to test diesels, and I don't have an answer on that. I

1 think I know the answer but I'll defer to a legal
2 opinion on that.

3 CHAIR WEISSER: What do you think the answer
4 is?

5 MR. CARLISLE: I think they do, as I recall,
6 but it does require regulatory process, but I think
7 they have legislative authority, but like I say, I'll
8 defer to our attorney when I pose that question to
9 them.

10 Does BAR have the authority to perform annual
11 testing in the Health and Safety Code? That I do not
12 know and I will defer that to them as well.

13 And also need to check on the status of the
14 after repair cut points. If you recall, that was one
15 of the report topics and there was an issue they were
16 looking at defining cut points for individual vehicles
17 as opposed to the emission standards category that are
18 typically used now. And I know ARB is working on that
19 but I don't know what the status is yet.

20 CHAIR WEISSER: So the question was merely to
21 find out what the status of ARB's investigation into
22 that is?

23 MR. CARLISLE: Yes.

24 CHAIR WEISSER: We should acknowledge the
25 arrival of Mr. Pearman to the meeting.

1 MR. CARLISLE: Okay, another topic was last
2 month, the month of January, was Lynn's last month with
3 the Committee. BAR has agreed to let her attend today
4 and also train a new OT. I have to tell the Committee
5 too, with me assuming her tasks as well, she did
6 volunteer and did it on her own time to write the
7 executive summary, so I thank her for that. She did
8 that from home, so that was done on her time. [skip]
9 request for [skip] I've also [skip] we'll have somebody
10 hired in two to three weeks. That's my goal anyway.

11 We had —

12 CHAIR WEISSER: Excuse me, before you move
13 on. There are no words that I can use to express our
14 continuing appreciation to Lynn for the work that she's
15 provided us, for the support she's provided us and for
16 the uplifting sense of humor that fundamentally colors
17 her approach to the world, and we're going to miss you.
18 I don't see dog footprints all over the summary minutes
19 so I doubt she did this at home.

20 MR. CARLISLE: Yeah, we do have a little
21 something planned for later, so, with regard to that
22 issue.

23 We did receive an application, or the
24 Governor did receive an application from a Mr. Andrew
25 Palino (phonetic). He's applying for the IMRC seat for

1 the industry position that's currently open, and I
2 haven't heard what the status is on that application
3 yet.

4 With regard to a process in the office, I'm
5 working on another active server page, if you will, to
6 simplify travel arrangements and some of the requests
7 that the Committee has so you'll be able to just go on
8 the Internet to our website and put in a request,
9 especially for those people out of town, when you want
10 to fly up, if it's the night before if you need hotel
11 reservations, that kind of thing, so it will simplify
12 and streamline the office process a little bit.

13 As far as this handout everybody has, couple
14 things I wanted to point out was in here I have new
15 legislation, and we don't have a specific topic on the
16 agenda, but in the review I wanted to review this.
17 There's three pieces of legislation that have been
18 introduced since we sent out this agenda. One is
19 AB184, introduced by Assembly Member Cogdill, and it
20 seeks to establish a pilot program to remove gross
21 polluting vehicles for either replacement or repair.

22 Another bill was AB383, Montañez, and what
23 they want to do here is increase the income
24 qualification to 200 percent from 185 percent of the
25 federal poverty level. And in the back behind the

1 actual legislation I've created a chart and you can see
2 how that would influence the current application
3 process.

4 For example, right now the federal guideline
5 is 17,224 for a single family unit, if you will. The
6 proposed CAP qualification would increase from 17,224
7 to 18,620 per year if they increased. Then if you
8 assume that you have an increase for the federal
9 poverty level, which has on average increased about
10 2.48 percent for the last five years, that would
11 actually increase to 19,082, and it goes on down to a
12 family unit of eight. So that was just a guideline to
13 give you some sense of what that bill would do to the
14 qualification process.

15 CHAIR WEISSER: Rocky, could I interrupt you
16 here and chat about this and the previous bill before
17 you move on?

18 MR. CARLISLE: Yes.

19 CHAIR WEISSER: By increasing the income
20 qualification, that allows more people to qualify for
21 consumer assistance; is that correct?

22 MR. CARLISLE: Correct.

23 CHAIR WEISSER: I'm assuming nobody has a
24 real idea what the extra potential demand might be by
25 increasing this; is that correct?

1 MR. CARLISLE: I don't believe so. I've had
2 minimal discussions with BAR about this, but the other
3 thing this bill does is it eliminates the test-only
4 qualification for CAP as well.

5 CHAIR WEISSER: I was going to get to that.

6 MR. CARLISLE: And what's confusing about
7 that is certainly some of those vehicles that have come
8 in and qualified for CAP being directed to test-only,
9 those same consumers would also qualify in the low
10 income, but there's no data to support what that
11 percentage is, and right now half the vehicles that go
12 into CAP are test-only qualified while half are low
13 income qualified.

14 CHAIR WEISSER: So let me get a sense of
15 this. I'm assuming that the sponsors of this
16 legislation feel that the existing cutoff level is too
17 low, not enough people who could really use this
18 assistance are eligible and they're trying to expand
19 that, and looking at the numbers that you have
20 projected in there, it seems maybe not enough.

21 The second aspect of the bill, the one
22 dealing with elimination of payment of Consumer
23 Assistance funds for higher income people just because
24 they're directed to test-only also seems to me to make
25 a great deal of sense, and I'd be interested if there

1 are members of the Committee that disagree with that
2 off the cuff kind of analysis.

3 I think on both of these bills and on bills
4 that come before us we have an opportunity to take a
5 position, and on the issues of increasing the number of
6 people who are eligible for consumer assistance
7 funding, low income people, I would recommend that we
8 would be in support of that. I would also recommend
9 that the Committee be in support of the notion of
10 eliminating consumer assistance payments to higher
11 income people just because they're being directed to
12 test-only.

13 Is there any discussion on that? I guess I'm
14 going to put that in the form of kind of a motion that
15 we develop a letter to send to the author of the bill
16 expressing conceptual agreement. Is there a second to
17 my motion?

18 MEMBER HISSERICH: I'll second it.

19 CHAIR WEISSER: Seconded by Mr. Hisserich.
20 Is there any discussion? Mr. Pearman.

21 MEMBER PEARMAN: My only comment is on, I
22 guess the second part of this bill which you've
23 described as if you are directed to test-only and you
24 are a, quote, 'high income person.'

25 It seems to me the way the bill reads and the

1 way the law is now, how do you define higher income, if
2 anybody, I guess, who's not within the 185 percent or
3 200 percent limit, so what you said before, that you
4 felt that that limiting was still too low, so you're
5 kind of cutting out people who you think probably
6 should get CAP assistance (inaudible) too low, but
7 you're not giving them the benefit (inaudible) statute.

8 So, I like the concept of limiting it to not
9 higher income people to get CAP assistance, but the
10 definition is a little bit inconsistent here to what
11 our purpose is. I'm not sure how to handle that but I
12 just pointed that out.

13 CHAIR WEISSER: Well, I think your comments
14 are right on target, and I'm hoping for suggestions.
15 Remember, we can in this sort of a letter indicate
16 those sorts of concerns, and actually the concerns are
17 not necessarily in conflict with one another. I mean,
18 it's clear that what I'm interested in, I guess, is
19 that people who are, you know, doing all right ought to
20 be able to pay for the costs associated with keeping
21 their car in proper operating condition. People who
22 aren't need some help. The poverty level lines, I
23 think, are almost absurdly low. The federal poverty
24 level, I don't know how someone could live at the
25 federal poverty level. I suspect you'd starve to death

1 or die of exposure, it just seems to be so low.

2 I think we would be able to draft a letter
3 that would present the Committee's sentiment, that of
4 the support of the notion of raising the cutoff point
5 for consumer assistance, a statement that even that we
6 suspect will leave many consumers ineligible who could
7 really use the assistance and the help in coping with
8 program requirements, and lastly, a generalized
9 statement indicating that we support eliminating the
10 use of consumer assistance funding for higher income
11 people who don't need it, and keep it at a conceptual
12 level. I think that kind of deals with what my
13 understanding is.

14 Are there other comments? Bruce?

15 MEMBER HOTCHKISS: Yeah, I have a problem
16 with even 200 percent leaves some people out, but I'm
17 not sure anyone could actually come up with a workable
18 formula. California has so many different economic
19 pockets up and down. I mean, you could raise it to
20 400 percent in the Bay Area and you still would leave
21 people out, so, you know, I think we have to recognize
22 that and perhaps the author has thought of that and
23 tried to set something that gets in there and is enough
24 to leave the lower income people in and hopefully
25 excluding the people that can afford to repair their

1 own vehicles.

2 MR. CARLISLE: Well, would we want to suggest
3 a percentage like 250 percent?

4 CHAIR WEISSER: I don't think we're competent
5 and knowledgeable enough at this point in time to
6 suggest a specific percentage. I think what we want to
7 do is put in conceptual comments on the bill.

8 Any other comments from members of the
9 Committee? I saw hand in the audience. Chris, would
10 you please approach the podium?

11 MR. ERVINE: Chris Ervine, Coalition of State
12 Test-and-repair Stations. What the bill does is it
13 raises the income that a person can earn and pay the
14 least deductible. In other words, by raising it from
15 180 percent to 200 percent, we're saying that these
16 people will only pay a \$20 deductible. All other
17 people are going to pay \$100 deductible.

18 So what this does is it does not increase the
19 number of people who are being directed to CAP, there's
20 no increase there whatsoever. What does increase the
21 number of vehicles that are going to CAP is the failure
22 of vehicles in test-and-repair stations.

23 And then again, who are you going to say is
24 making too much money? An individual making \$100,000
25 in the Central Valley with two kids in grammar school

1 is probably making too much money. Okay. A person
2 making \$100,000 in the Bay Area with two kids in
3 college is probably destitute, so where are you going
4 to draw the lines here?

5 Everybody is paying into this, even the
6 so-called rich people are paying into the program
7 through their license fees, and to try and discriminate
8 and eliminate people from the program, I think is a
9 little bit of an error.

10 CHAIR WEISSER: So your perspective is there
11 should be no income qualification for the low income
12 assistance program?

13 MR. ERVINE: No, I did not say that. I think
14 that the deductible, okay, the deductible is \$20 for
15 CAP program if you qualify for low income. If you do
16 not qualify for low income it's \$100. And I think
17 that, yes, it should be raised even higher for
18 individuals and they should pay the \$20. Okay.
19 Instead of making \$18,000 it should be 25 or whatever
20 it is, I agree with that portion of it, but it's not
21 going to bring more people into the CAP program. That
22 portion of the bill still, everybody is still eligible
23 that was eligible before, you're not bringing any other
24 people in. The portion that does bring additional
25 people into the CAP program is where it says that

1 people that fail smog at test-and-repair stations are
2 now eligible for the CAP program. That has been
3 excluded before.

4 CHAIR WEISSER: Thank you. I still don't
5 understand, quite frankly Chris, how raising the income
6 eligibility would not allow more people to qualify.

7 MR. ERVINE: Anybody that is directed to
8 test-only, regardless of income, is eligible for the
9 CAP program.

10 CHAIR WEISSER: What about those that are not
11 directed to test-only? Doesn't the income –

12 MR. ERVINE: Okay, they are allowed to go to
13 test-and-repair. That is the area that it's going to
14 increase the number that go to CAP.

15 CHAIR WEISSER: That's what I thought.

16 Mr. Armstrong?

17 MR. ARMSTRONG: Yes, my name again is Larry
18 Armstrong. I sometimes feel like not having you folks
19 take care of them or the state or the people that get
20 charged an extra fee on their license to register their
21 vehicle, and the last thing I saw one time had fifth
22 and sixth generation people being on welfare in the
23 State of California and I think all they're doing here
24 is asking to add a little fringe benefit onto a failed
25 program that makes absolutely no sense. People have in

1 the past fixed their own automobile or found a way to
2 get it fixed, and doling out welfare money to fix cars
3 is bad policy as far as I'm concerned.

4 CHAIR WEISSER: Thank you, Mr. Armstrong.

5 I'd like to note for the audience Mr. Tyrone
6 Buckley has now joined us and ask him to approach the
7 podium. Good morning, Tyrone.

8 Are there other comments from the audience?
9 We have Mr. DeCota on the Committee who has a comment.

10 MEMBER DECOTA: Is it not the fact that those
11 people that do – I had it, Mr. Chairman, but I must be
12 getting old here, I've lost my train of thought.

13 CHAIR WEISSER: You're not getting old,
14 Dennis, it's that there's so many great thoughts
15 circulating in your mind that a better one drove the
16 lesser one out.

17 MEMBER DECOTA: It will recharge.

18 CHAIR WEISSER: Whenever it does we'll look
19 forward to sharing it. Are there any other comments or
20 lapses of memory?

21 Okay, so there's a motion that's been
22 seconded for the Committee to ask the executive officer
23 to draft a letter to the author conceptually outlining
24 the three things that we said. I'm not going to try to
25 repeat what we said. All in favor please indicate by

1 saying aye.

2 IN UNISON: Aye.

3 CHAIR WEISSER: Are there any opposed? No.
4 The motion carries unanimously.

5 Now Rocky, I know you thought you were going
6 to move on to number three, but I want to return to
7 number one, which is AB184, the Cogdill bill, which I
8 have not read the measure but I've heard from you and
9 earlier from others associated with this author's great
10 interest in attempting to try to deal most directly
11 with the difficult challenges that face the Valley in
12 its attempts to achieve air quality standards. It will
13 be no secret to anyone on this Committee or in this
14 audience that I for one am very much interested in
15 identifying programs that would provide adequate
16 funding for both the repair and early retirement of
17 higher polluting vehicles. I think at this point the
18 measure may not be all that completely filled out, it's
19 a concept that's been put forward and it's one that I
20 think we want to keep our eyes on closely and at some
21 point in time we may want to engage on this bill, and
22 I'd open that up for any comments or discussion by
23 members of the Committee.

24 Jude, have you had a chance to be involved on
25 this issue?

1 MEMBER LAMARE: Thank you, Mr. Chairman.
2 Judith Lamare for the Clean Air Partnership.

3 As I read this bill, it's just the vehicles
4 (inaudible) so there's no (inaudible), but I think
5 there's a lot of interest right now in trying to
6 (inaudible) vehicle retirement. Of course, the Bureau
7 (inaudible) now accelerating vehicle retirement
8 furnished the model that (inaudible).

9 As far as the California environmental
10 (inaudible), the Clean Air (inaudible) is looking at
11 some of the issues. Hopefully that group will bring
12 forward some recommendations (inaudible) take into
13 consideration (inaudible).

14 CHAIR WEISSER: I think the bill is
15 particularly timely. I mean, the added sense of
16 clarity as to the very, very, I think, unique
17 challenges (inaudible) in attainment becoming clear air
18 quality standards in laying out to the public the
19 severity of the challenges, and not merely running
20 around throwing hands up in the air and whining but
21 coming forward with an approach, in skeletal form
22 obviously, that might go far towards meeting that
23 challenge.

24 And consistent with that which we heard from
25 the Governor's office last year upon the framing of the

1 increase in the budget for vehicle retirement and
2 vehicle repair and the modifications associated with
3 the Moyer Program, the Governor's office explicitly
4 told me that they were interested in the coalition that
5 was put together on that issue last year to continue
6 its work because they thought that was the start, not
7 the end, of the sorts of resources that would need to
8 be put into solving this problem in terms of
9 (inaudible) emission reductions.

10 Ms. Lamare?

11 MEMBER LAMARE: One other thought, and that
12 is, it seems to me the discussion of accelerated
13 vehicle retirement and better repairs, more frequent
14 repairs (inaudible) to reducing emissions from light
15 duty vehicles that are in the older category, one issue
16 that seems to come up is that there is some competition
17 between these approaches and that one approach will
18 take away from the other approach, and it seems to me
19 in looking at the vehicle population statewide that are
20 so large that there really is a competition between the
21 two.

22 Of course, the accelerated vehicle retirement
23 program is a voluntary program and anybody can opt into
24 that program and receive the benefits for themselves.
25 The Smog Check repair program is a mandatory program.

1 You have to have your Smog Check equipment in working
2 order. Nonetheless, it might help our Committee in
3 looking at these issues (inaudible) to have a report on
4 the number of vehicles that are involved in the older
5 group, the number that's in CAP, how many vehicles
6 repeatedly fail Smog Check year after year. If we get
7 some of the numbers so that people understand what the
8 volumes are that we're talking about and what a
9 reasonable accelerated vehicle retirement program would
10 actually produce in terms of increased scrappage of
11 vehicles, people might begin to feel more comfortable
12 that there's a lot of work to be done out there on both
13 sides.

14 CHAIR WEISSER: Well, I think that's an
15 outstanding idea. I think it would be very helpful for
16 us just to get as good a sense as we can of kind of the
17 order of magnitude of the number of vehicles that get
18 repaired with assistance or retired early by both state
19 and district programs. What I'd suggest perhaps is -

20 MEMBER LAMARE: Well, the potential pool that
21 we're talking about.

22 CHAIR WEISSER: That, I suspect, is going to
23 be pretty fuzzy. I mean, how -

24 MEMBER LAMARE: Well, do we know how many
25 vehicles there are in each model year registered in

1 California? Do the ARB and BAR know or have a method
2 for tracking vehicles to identify those that are most
3 likely to fail based on (inaudible) failure is the
4 number one reason (inaudible) predict the variables
5 there.

6 I feel certain that the agencies could report
7 to us on the numbers in the older vehicle category and
8 those that are gross polluters likely to repeatedly
9 fail versus vehicles that can be repaired, that have
10 been repaired and made clean, (inaudible) that are
11 passing Smog Check (inaudible), et cetera.

12 Maybe I'm being --

13 CHAIR WEISSER: I truly don't know whether
14 the agencies have that capability to come forward with
15 data of that sort. Is there anyone from the agencies
16 that would care to say anything at this time? If not,
17 what I'd suggest is perhaps a (inaudible).

18 Are there any other comments on this? I'm
19 not recommending at this time that the Committee take
20 any position other than keep our eyes on this one and
21 perhaps we could always inform the author that we're
22 interested in being of any assistance as we can in
23 developing it, but that can be just done by a phone
24 call to the staff, Rocky, and not a formal position.

25 Please proceed now to the -- oh, I'm sorry.

1 Mr. DeCota's memory has returned.

2 MEMBER DECOTA: Rocky, is it not the fact
3 that you can obtain a waiver for a gross polluter for a
4 period of time under financial hardship issues?

5 MR. CARLISLE: Yes, you can.

6 MEMBER DECOTA: Wouldn't it be prudent of the
7 Committee to recommend to the author of AB383 that that
8 should be looked at possibly and those additional
9 repairs come under that may be above, that maybe there
10 should be no vehicle waived from the standpoint of
11 financial hardship to the fact that we would hopefully
12 pick up more revenues because those that can afford the
13 repairs would pay for them; thus, we could more
14 completely repair the car that was being waived
15 financial hardship? I mean, is that something that the
16 Committee thinks is of noteworthiness to the author?

17 CHAIR WEISSER: Dennis, let me ask you a
18 question. We've already noted the extremely low level
19 of the cutoff points for qualification for the consumer
20 assistance. If you don't qualify, you're above that by
21 \$2,000, \$5,000 or even \$10,000, and your car has a
22 failed catalyst or some other rather catastrophic
23 problem —

24 MEMBER DECOTA: Right.

25 CHAIR WEISSER: — you, under what I hear you

1 saying, would be required to fix that or not operate
2 your car, and I guess I'm concerned that some of these
3 catastrophic failures are both catastrophic to the air
4 and also catastrophic to the family in question, and
5 the notion of giving someone a one-year or a two-year
6 reprieve –

7 MR. CARLISLE: It's waived for one cycle.

8 CHAIR WEISSER: So it's two years.

9 MR. CARLISLE: It's two years.

10 CHAIR WEISSER: Well, that's probably a
11 mistake. Giving people who don't qualify for low
12 income, I would certainly suggest that anyone who does
13 qualify for low income assistance, we shouldn't give
14 them that exemption. I mean, you have the state to be
15 able to cover any sort of catastrophic problem.

16 MEMBER DECOTA: And that's my intent of what
17 I'm trying to say here is can't we get better
18 reductions? I mean, there's cars that Blue Book value
19 says the car is worth repairing, but the person cannot
20 afford the repair. What are we doing today? We're
21 allowing it to pollute for an additional two years.

22 Is there a method in the recommendation here
23 where we may address that to basically create a
24 situation where the money was used for the best bang
25 for the buck, and that is to clean up that vehicle

1 that's been waived?

2 CHAIR WEISSER: Jude?

3 MEMBER LAMARE: I think this is a great idea
4 for the income eligible, but I'm wondering if it would
5 be best to suggest that it be considered and we get the
6 feedback from the agencies who administer the program
7 and other parties as to the workability? I mean, in
8 our letter to Ms. Montañez, that we suggest (inaudible)
9 and request information from (inaudible).

10 CHAIR WEISSER: I guess I would be hesitant
11 to at this point toss that out until we had some
12 discussions with the agencies to get a better sense of
13 this, and then we can, of course working with the
14 staff, try to see if there's something that the author
15 might be willing to do to deal with this.

16 I want to make sure, though, Dennis, I
17 understand what your [skip]. I'm not sure that those
18 repairs that the Department deems would be
19 cost-effective for people who are qualified for low
20 income assistance —

21 MEMBER DECOTA: That's exactly what I'm
22 saying.

23 CHAIR WEISSER: — that sounds not
24 unreasonable. I mean, I would want to have a
25 conversation with the Department to find out whether in

1 fact you would need to discriminate between repairs
2 because some would be cost-effective and others would
3 be throwing money (inaudible).

4 MEMBER DECOTA: It would have to be tied to
5 the worth of the vehicle. I mean, we're not going to
6 pay \$1,000 for a car that's worth 100.

7 CHAIR WEISSER: Yeah.

8 MEMBER DECOTA: Or you're just wasting the
9 fund.

10 CHAIR WEISSER: What I'm going to suggest at
11 this point is that the letter go as the Committee voted
12 on, and that we, meaning Rocky, get together with a
13 Department person and explore this. I mean, it sounds
14 to me like a potential win/win opportunity, but I want
15 to hear what the Department has to say.

16 Okay. Chris, I'm going to ask you to – we're
17 not taking a position on that issue at this point, I
18 just wanted to make sure I understand.

19 MR. ERVINE: I think the present law right
20 now is that a gross polluter vehicle has to be brought
21 below the gross polluting level before it's eligible
22 for an exemption. He's shaking his head yes and he's
23 not.

24 CHAIR WEISSER: I'm almost certain it's a
25 one-time waiver. I'm almost certain that's the law.

1 MEMBER DECOTA: It is.

2 MR. ERVINE: Oh, they changed it?

3 MEMBER DECOTA: Yeah, it was repealed in '97
4 or '98.

5 MR. ERVINE: Oh, okay. Excuse me.

6 CHAIR WEISSER: Fine, thank you.

7 Mr. Armstrong.

8 MR. ARMSTRONG: Yes, my name again is Larry
9 Armstrong. There's some things that seem to me need to
10 be said. I really firmly believe that if we subject
11 the public to reasonable Smog Check demands, that they
12 would make – and you had some consistency in the
13 program, that the public would make the best decisions
14 for themselves without involving my money in fixing
15 somebody else's car, is the way I look at it. If there
16 was an assistance program, necessary repairs might be
17 made before that vehicle ever got in the hands of the
18 person who might not be able to make massive repairs to
19 a vehicle.

20 Member Lamare made a comment about reasonable
21 accelerated vehicle retirement program, and in my
22 opinion that's an oxymoron that we're repairing cars
23 that shouldn't be repaired and we're eliminating
24 vehicles that probably in most cases would have been
25 eliminated by the owner of the vehicle if they were

1 subjected to reasonable demands to maintain their
2 vehicle. Thank you.

3 CHAIR WEISSER: Thank you, Mr. Armstrong.

4 Okay. You're back up at the plate, Rocky,
5 with AB578.

6 MR. CARLISLE: Okay. (Inaudible). This bill
7 would modify the Health and Safety Code, specifically
8 section 44010.5, which is the basis of the direction
9 for test-only vehicles that originally stated in effect
10 that they would direct a minimum 15 percent or 10,
11 whatever percentage was required to get the emission
12 reductions as stated in the SIP. This would change
13 that essentially from a mandate, it would change it to
14 permissive, and it would change it from "shall
15 increase" to "may increase" and it says, "In addition,
16 any increase in the number of directed vehicles may
17 only be enacted after an open and public review to
18 consider the various impacts of such an increase," and
19 it lists a number of impacts in the bill with regard
20 (inaudible) test-only cost and (inaudible).

21 But the question, and again I don't have the
22 benefit of legal opinion, this just popped on the radar
23 this past week, it's effective [skip].

24 CHAIR WEISSER: Thanks, Rocky. I think the
25 issue that's being put forward here is one of pretty

1 universal interest, and that is at what level and how
2 are cars sent to test-only versus consumers having
3 their choice between test-and-repair and test-only.
4 And I have not read the bill, but the notion of getting
5 that issue in the public faith by introducing a measure
6 such as this seems to be only healthy.

7 I want to make sure I understand that the
8 concept is that there would be some analysis that would
9 be based on some criteria to determine what percentage
10 ought to be directed, and that that process would be
11 then subject to some sort of public meeting where
12 people would have an idea of the thought process that
13 went into a proposed decision.

14 MR. CARLISLE: Correct.

15 CHAIR WEISSER: And that the bill does not
16 mandate any particular number, nor does it take away,
17 in fact it almost adds to agency discretion; is that
18 correct?

19 MR. CARLISLE: Yes, I believe it does.

20 CHAIR WEISSER: Do we know what the
21 implications are in terms of the SIP and the state
22 being able to take credit for emission reductions in
23 the SIP? That would seem to me to be an important
24 aspect of this issue that needs to be nailed down.

25 Well, I guess this is a bill I'm going to

1 have to read. It sounds to me like it strikes at the
2 core of one of the issues that we repeatedly hear about
3 over and over again from the folks in the industry.
4 Whoever put the bill in I think deserves a pat on the
5 back, whoever sponsored the bill, just for getting the
6 issue up on the dias.

7 I'm going to assume unless I hear otherwise
8 that at this point in time neither ARB nor BAR have a
9 position on this matter. If I am incorrect will
10 someone rise. You have no position on the matter at
11 this point in time? Plus, it takes forever to get an
12 approved position out of any administrative process.

13 I'd be real interested in seeing what the
14 lead of the agencies is on this before we take action
15 other than to compliment the author for raising an
16 issue that I hope we will be able to add some
17 information in the public debate that emerges on this
18 issue. I'm looking forward to what will follow shortly
19 in this meeting and a little status report on some
20 efforts we have going on that might help illuminate
21 aspects of this issue.

22 Any comments or anything else from the
23 public? Great.

24 Well, I think, Rocky, I want to thank you.
25 Is there anything else that you want to add?

1 MR. CARLISLE: I was just going to talk about
2 a couple of the pieces of correspondence that I've
3 included in this handout. One was the cover letter to
4 the Governor and the Legislature with the report. We
5 did write to BAR as per the last meeting and suggest an
6 open process, if you will, for the change of the
7 referee. There's also a copy of the press release in
8 here that (inaudible) 14 newspapers.

9 And there was a copy of a letter to the
10 Governor from Mr. Larry Armstrong. We were cc'd but to
11 date I haven't received that correspondence, so I did
12 copy it off the Internet and include it in this
13 document.

14 In addition, if anybody's interested, I have
15 a copy of the (inaudible), not only the Legislature but
16 the Air Quality Management Districts and other
17 interested parties.

18 And finally, one news article in the very
19 back.

20 One other thing that I would just like to
21 mention. The thing that has gotten the most
22 controversy with the report was not the report itself
23 but the comments, and there was some concern [skip].
24 That wasn't the thing that was troubling to me in
25 retrospect, to be honest, it was the word he used to -

1 CHAIR WEISSER: No, I don't want you to
2 repeat that word.

3 MR. CARLISLE: No, I'm not going to. But my
4 suggestion, I was thinking about this, and the
5 suggestion I was going to have for the next report just
6 for your consideration is that in the report itself
7 that we could recap comments and even put a chart like
8 I put in there originally indicating who wrote it, what
9 segment of the industry they were with and what their
10 concern was, and then create an addendum that if
11 anybody wanted the complete comments we could also send
12 them the addendum. But in discussions with legal, they
13 indicate we'd be within our right to redact if
14 necessary and/or at least include a disclaimer, but I
15 just wanted to submit that for the Committee's
16 consideration.

17 CHAIR WEISSER: Well, Rocky, now that we've
18 raised this issue I think we have to be a little more
19 explicit. We received calls which were from folks in
20 the Administration concerned that we allowed a comment
21 letter to go in that had a disparaging comment, and in
22 the conversation I had with a person we came to, I
23 think, an understanding or an agreement that if in fact
24 it was the role of this Committee or any committee
25 serving in the Department of Consumer Affairs to

1 somehow edit out public comments because of their
2 inappropriate nature, that was something that frankly I
3 hadn't received any training in when I went to the
4 board training process. It wasn't addressed and I
5 don't think there's anything in writing on that, and in
6 the absence of training on how to deal with that, you
7 know, I guess I stand with the First Amendment.

8 And this Committee, as you remember, had a
9 discussion as to whether we should include the letters
10 and we decided we should. The issue of us, as you call
11 it, redacting comments and putting it into a summary is
12 a possibility that we could look into, but that gets
13 tricky and can be tricky because you don't want to
14 miscast someone's comment in a way that the person
15 didn't intend it, and sometimes redacting comments is a
16 judgment exercise.

17 So it's something, Rocky, that I think we
18 could and should consider. The good news, I think, is
19 that this, I'll call it, it's not a controversy, but
20 this issue, I think, highlighted a potential gap in the
21 DCA training program for members of commissions and
22 executive officers of commissions, and I'm hopeful to
23 see that the training program will be revised so as to
24 give more clarity to how to handle this sort of
25 situation.

1 Have I thoroughly confused everyone? Okay.
2 Then I've failed in my endeavor. Thank you.

3 Anything further, Rocky?

4 MR. CARLISLE: No, that concludes my report.

5 CHAIR WEISSER: Okay. Any questions from
6 anybody of our executive officer?

7 I'm going to propose that we take a
8 ten-minute break and then go into the meat of our
9 agenda. I didn't say this earlier, but considering the
10 nature of the agenda, it is quite possible that we will
11 be having a meeting far shorter than normal. We'll try
12 to provide every opportunity to explore every issue
13 that is before us today as thoroughly as we need to to
14 allow for all the time that we need for any public
15 comments on the agenda or frankly anything else that's
16 on the public's mind, but just to give you a heads up,
17 I think there's a chance that we may be getting out of
18 here a little earlier than our normal four o'clock
19 closure.

20 So with that, we'll take a ten-minute break.

21 (A brief recess was taken.)

22 - ooo -

23 CHAIR WEISSER: Okay, ladies and gentlemen,
24 the meeting is now back in order. Please be seated. I
25 want to acknowledge that the Committee has received

1 copies of a letter from Ken Busby – I'm sure I
2 butchered that name – to Senator Chesbro regarding
3 ping-ponging issues (inaudible) we'll review this.
4 Thank you very much.

5 Before we took the break, I made some offhand
6 comments about the wonderful work that Lynn Forsyth has
7 provided this Committee for many, many years. This
8 Committee has seen the sorts of stresses and strains
9 that are placed upon Lynn in this job, and we have a
10 little offering that we'd like to make to you, Lynn,
11 but first, Rocky?

12 MR. CARLISLE: Lynn, we just want to say
13 thanks. People don't realize sometimes she's on both
14 sides of the fence, and that's what's been difficult
15 for Lynn, because she's worked for me for two or three
16 days a week and then at BAR, and how do you separate
17 those two? It's very difficult, and she's done an
18 admirable job. Not only that, she's really gone above
19 and beyond, because she's packed up that office at
20 least twice, and the first time we probably threw out,
21 no kidding, 500 pounds of trash, paper that just
22 accumulated. So I really want to thank you, Lynn, for
23 all the help you've been for the last 15 months.

24 [Applause]

25 CHAIR WEISSER: I once again want to express

1 our appreciation to the Bureau for providing for a
2 generous transition period so that Lynn can help us
3 continue to do our work and train the person that we
4 are able to hire to try to fill at least a portion of
5 her shoes.

6 Lynn, this Committee is aware of the stresses
7 and strains that you face, and for that reason, we have
8 here a fabulous spa treatment for you that we hope will
9 remove at least one or two wrinkles from that forehead
10 of yours. Those wrinkles are things we added and
11 apologize for that and [skip] in the years to come. So
12 you and I are going to the spa tonight. I'm not sure
13 about the rest of these folks here.

14 - ooo -

15 Okay. Let's move into additional elements of
16 our agenda. Members, we do intend to break for lunch
17 at 12:00, and because of that, at 20 to 12:00 I'm going
18 to use my discretion as chair to allow a number of shop
19 owners from the Bay Area who have traveled here taking
20 time out of their normal work day to make some comments
21 that they have regarding implementation of the program
22 in the Bay Area. We'll do that at probably right
23 around 20 to 12:00.

24 Moving into the rest of the agenda, we first
25 have a status report on the consumer information

1 survey, and I'd like to ask Ms. Lamare if she might be
2 able to bring us up to date on where things stand in
3 that regard.

4 MEMBER LAMARE: Thank you, Mr. Chairman.
5 Rocky informed me that Form 10 had completed as of the
6 end of last week 381 of the, I believe it's 550 that
7 we're looking for of the interviews, and the survey is
8 not yet ready for presentation to the IMRC.

9 Rocky and I of course are reviewing the data
10 and giving feedback to the company on technical issues.
11 We're pleased to see that the survey is commencing and
12 we have every expectation that it will be completed. I
13 think that part of the problem may have been finding
14 phone numbers to match the VIN numbers [skip] people
15 moving and changing phone numbers, even though these
16 are very recent Smog Checks that we were asking about
17 in the survey, we probably lost opportunities to speak
18 directly with people because we didn't have their phone
19 numbers.

20 I would like for Rocky to ask Form 10 to give
21 us a report back on the number of vehicle owners that
22 were contacted, the number of VIN records that they
23 had, the number of vehicle owners that they were not
24 able to contact because they didn't have valid phone
25 numbers, and then of those folks that they contacted,

1 the number of refusals. And make sure that we
2 understand what the refusal rate was so that we are
3 able to do a comparison of the vehicle owners that we
4 are talking to versus those that would not talk to us
5 to see if the ones we talked to are in any way not a
6 representative sample of the whole. We need to do
7 that; otherwise, I would expect that the sample is a
8 good one. It's random. It's drawn from a very large
9 database. It is matched to the county proportionate to
10 the vehicles per county in the enhanced program, so we
11 know that the sample will be proportionately balanced
12 in terms of its distribution in the state.

13 And we're hoping to learn more about the
14 whole Smog Check process from the consumer point of
15 view by asking questions (inaudible) 90 days and find
16 out more of what influenced their choices, where they
17 went for Smog Check and also for repairs and how they
18 approached the process, if they judged it to be easy or
19 difficult, and check on how much they paid. So I think
20 we'll be getting some really valuable information for
21 the Committee to consider and I am very hopeful that
22 the report will be provided at the next meeting.

23 CHAIR WEISSER: So, Jude, it sounds like the
24 question that's up for you is, how do we ensure that
25 the survey sample are people who are actually engaging

1 in the survey is reflective of the community as a
2 whole; is that correct?

3 MEMBER LAMARE: I think we can do it. We
4 need to make sure that we do do it (inaudible).

5 CHAIR WEISSER: And who would do that work
6 specifically?

7 MEMBER LAMARE: Well, that's a huge question.
8 I don't know.

9 CHAIR WEISSER: Okay. Well, I'd be
10 interested in hearing how you pursue that and what we
11 can do to be of help in that regard. Jude –

12 MEMBER LAMARE: Excuse me, Jeffrey's about to
13 say something.

14 CHAIR WEISSER: Jeffrey.

15 MEMBER WILLIAMS: I can comment on that since
16 I was the one that drew the original giant sample which
17 was just the failures in August, September and October.

18 MR. CARLISLE: And November.

19 MEMBER WILLIAMS: So we know a fair amount
20 about the original vehicles that we can go backwards
21 and –

22 MEMBER LAMARE: And develop performance
23 indicators, and it sounds like Jeffrey's willing to
24 help.

25 MEMBER WILLIAMS: So we're already sitting

1 here on the original master sample (inaudible).

2 MEMBER LAMARE: I think that Jeffrey and I
3 could talk about what we would use and comparison
4 points (inaudible) we would use to compare the sample
5 of the universe that we drew –

6 CHAIR WEISSER: Very good.

7 MEMBER LAMARE: – to determine whether it's
8 within a reasonable margin of error.

9 Mr. Chairman, maybe you want me to talk about
10 the Gold Shield?

11 CHAIR WEISSER: Well, that was where I was
12 going to move since you're up, I thought it might be a
13 good idea for you to chat with us regarding the Gold
14 Shield station distribution study that you did.

15 MR. ERVINE: Could you speak up a little bit?
16 We can barely hear you back here.

17 CHAIR WEISSER: Jude? Me or Jude?

18 MR. ERVINE: Jude.

19 CHAIR WEISSER: Jude.

20 MEMBER LAMARE: I could speak more directly
21 into the microphone. Will that work?

22 MR. ERVINE: I'm not sure that it's turned on
23 or not.

24 MEMBER LAMARE: There's no amplification in
25 the room? (Inaudible)

1 CHAIR WEISSER: Why don't you just slide over
2 to Dennis's place?

3 - ooo -

4 MEMBER LAMARE: In the report packet - can
5 you hear me, Chris? In the report packet under
6 reports, and I assume on the back table, there's a
7 little report called Analysis of Gold Shield Station
8 Distribution. This issue came up maybe six or ten
9 months ago when Tyrone Buckley and I were talking about
10 the environmental justice segment of the Smog Check
11 Program and the comments we were getting from the
12 public about concerns that the public knows about the
13 Consumer Assistance Program and knows how to get access
14 to it and that folks who are eligible for consumer
15 assistance are able to get that assistance, and it
16 occurred to us at that time that one thing that might
17 be helpful that would be easy to do would be to simply
18 look at the distribution of Gold Shield stations around
19 the state and see if there is any indication that those
20 stations are not distributed in a way that would
21 provide people access to the Consumer Assistance
22 Program. Gold Shield station is the only access point
23 into the Consumer Assistance Program, so that's why we
24 were interested in looking at that issue.

25 We know that, and this study is based on a

1 time when there were 595 Gold Shield stations in the
2 state and there probably are some more now, because the
3 Bureau is actively recruiting qualified stations to
4 enter the program, but the Bureau of course does not
5 control the distribution of the stations because
6 becoming a Gold Shield station is entirely voluntary on
7 the part of the owner of the station. So the questions
8 that we were interested in looking at were, are Gold
9 Shield stations available to those who need them? Is
10 there income or racial bias to the distribution of Gold
11 Shield stations in terms of the communities that
12 they're found in? And where should efforts to recruit
13 more Gold Shield stations be focused?

14 Now, obviously we didn't expect and could not
15 answer those questions definitively. What we were able
16 to do was bring to bear some information about the zip
17 codes and the counties and look at [skip] an objective
18 observer to pause and wonder whether the Gold Shield
19 stations were fairly distributed. The short answer is
20 no, we didn't see anything that would tell us that Gold
21 Shield stations aren't being located where they're
22 needed.

23 There were also some caveats about the way
24 they did the study and I would certainly like to hear
25 comments from anybody on the Committee or the public

1 that sees something here that they wouldn't feel was
2 done right, please let me know.

3 One thing we noticed was that some counties
4 have lower ratios and some have higher ratios, and so
5 while clearly you put a Gold Shield station in a low
6 population county you're going to have fewer vehicles
7 per station, and that's a good thing because there's an
8 entire density of stations in a big, big county with a
9 lot of people. You know, you're going to need a huge
10 number of stations to give you the same ratio of
11 stations to vehicles. So we don't really want to
12 compare apples and oranges here. We don't want to take
13 L.A. which has the lowest density and say that somehow
14 they're underserved because Tulare County and Madera
15 County had more stations per vehicle. You can't really
16 compare those, they're not the same kind of animal.

17 But nevertheless, we found that some urban
18 counties had lower densities of Gold Shield than other
19 urban counties who were also in enhanced areas,
20 suggesting that some counties are better served than
21 other counties with Gold Shield. San Diego, Sacramento
22 have above average number of stations per vehicle. Los
23 Angeles, Orange, Alameda and Santa Clara have below
24 average, so something to think about there and
25 wondering whether there isn't a need to recruit some

1 more stations in some of those areas.

2 The second thing that was able to look at was
3 indicators of economic and ethnic diversity by zip
4 code. The Center for Justice, Tolerance and Community
5 at the University of California in Santa Cruz was very
6 helpful and I'd like to thank them for pitching in and
7 providing data in a form that I could easily use. And
8 then I also found data from the census on live births
9 by ethnic group by zip code, just as one measure of
10 what areas might be more heavily populated by certain
11 ethnic groups.

12 So the results of the economic and ethnic
13 analysis, I think, were good in that we did not find
14 any negative biases. None of the measures of economic
15 status were correlated with the presence or absence of
16 Gold Shield stations in the zip codes, indicating that
17 people who need Gold Shield are as likely as people
18 that don't need it to find a station in their zip code
19 (inaudible). The only ethnic variable that (inaudible)
20 Gold Shield stations was the Hispanic (inaudible) which
21 was actually correlated with more Gold Shield stations
22 rather than less, so that's not a negative aspect.

23 Again, this is a really gross level of
24 analysis and there were included in the analysis zip
25 codes that aren't populated and it could be refined.

1 The recommendations that are made here by me
2 are that IMRC and the Bureau should continue to look at
3 the distribution of Gold Shield stations in terms of
4 the people who need the Consumer Assistance Program.
5 Right now we don't have any reason to think that low
6 income status vehicle owners have less access to Gold
7 Shield than other economic groups. There isn't any
8 evidence that there's a bias of density (inaudible)
9 access to Gold Shield, but we have to ask whether there
10 are enough Gold Shield stations out there to provide
11 for the Consumer Assistance Program needs. [skip] Gold
12 Shield stations. And the data suggests that there is a
13 network of Gold Shield stations in place as adequate
14 infrastructure to serve the CAP program, in place
15 statewide in each of the enhanced counties.

16 And that concludes my report.

17 CHAIR WEISSER: I'm curious. You indicate
18 that it's your sense that the Gold Shield station
19 infrastructure in place is adequate to serve increased
20 demand for the CAP program, presumably as a result of
21 more money flowing into CAP, and I'm wondering whether
22 or not any of the questions you have in the consumer
23 survey might help illuminate that question even
24 further.

25 MEMBER LAMARE: I think so, because we did

1 ask people whether they were looking for a Gold Shield
2 station, whether they were looking for their Smog Check
3 station (inaudible). We asked a question intended to
4 get partially at whether they would qualify for CAP.
5 It's not a definitive economic analysis of the vehicle
6 owner by any means, but it might give us an indicator
7 of who is eligible and whether they were looking for
8 Gold Shield when they went out to get their auto
9 repaired.

10 CHAIR WEISSER: Any questions or comments
11 from members of the Committee? Any comments from the
12 audience? We'll start with Mr. Peters.

13 MR. PETERS: Mr. Chairman and Committee, I'm
14 Charlie Peters, Clean Air Performance Professionals,
15 and we're concerned with the consumer in this Smog
16 Check.

17 Ms. Lamare, in your comments you covered a
18 lot concerning the Gold Shield and its availability to
19 the public and so on. You mentioned a lot of very
20 interesting things that were asked and the ways in
21 which you're evaluating it. What wasn't said seems to
22 be of more interest to me and I just wondered if any
23 portion of this evaluation that you're doing is
24 determining whether the standards for Gold Shield are
25 appropriate.

1 As an example, the criteria to make someone
2 eligible to be a Gold Shield may very well be things
3 that are counterproductive to quality,
4 counterproductive to best serving the public, and very
5 possibly things such as failure rate and so on which
6 are not necessarily related to the performance of the
7 individual shop. An individual shop which may deal
8 primarily with newer cars, primarily with cars that are
9 their own customers, may be a highly qualified
10 appropriate person to be in the program, but may be out
11 of the program, and my question to you is, are those
12 the criteria for stations, is that a part of your
13 evaluation, and if not, why?

14 MEMBER LAMARE: It's not a part of the
15 evaluation. I don't know how to answer why not. I
16 mean, I explained how it was that we came to this
17 concern about availability, and if you're asking IMRC
18 to examine the Gold Shield station criteria, that's
19 something that IMRC might want to do but it is not part
20 of what I was doing in this particular analysis.

21 MR. PETERS: I appreciate that response and I
22 would highly encourage the Committee to look at the
23 issue of Gold Shield eligibility in that [skip].

24 CHAIR WEISSER: Thank you, Mr. Peters.
25 (Inaudible). Mr. Trimlett.

1 MR. TRIMLETT: Thank you. Len Trimlett,
2 smogrfg.com. The way I listened to the presentation,
3 did I understand correctly the issue was if the people
4 find a lack of availability of Gold Shield stations; is
5 that what the study was about? That's what I thought I
6 was hearing.

7 MEMBER LAMARE: The study was about taking
8 all the Gold Shield stations and seeing whether they
9 were distributed equally amongst zip codes and counties
10 of different socioeconomic and ethnic characteristics.
11 So are the existing stations distributed in a way that
12 people have access to them who need access to them?
13 Are there areas that are excluded that don't have Gold
14 Shield available?

15 MR. TRIMLETT: In other words, are they
16 distributed such that each group has equal access to
17 them? You didn't address the issue then of their
18 access to availability for people who had been forced
19 to go to test-only stations against their will. This
20 goes back to that. It seems to me that you've totally
21 missed the boat. The target's over here, not over
22 here. The issue is how many of those people that were
23 trying to get access to Gold Shield stations were
24 denied access because they were told they were directed
25 to test-only?

1 CHAIR WEISSER: Thank you, Len. I think
2 you'll find some of the answers to that in the
3 follow-up discussions that we have regarding comparison
4 of the results (inaudible). The nature of the
5 investigation that Jude performed by necessity was
6 limited to that which she outlined; was there some sort
7 of pattern that had emerged over the state that showed
8 that either by income distribution or ethnicity, if
9 some folks were disproportionately less able to access
10 a Gold Shield station, and from what I'm hearing, the
11 analysis indicates no. It also indicates your
12 recommendations that that doesn't mean you take your
13 eye off of this problem. You're urging, and I will
14 concur with that, that the agencies (inaudible) over
15 the long run, you're suggesting that there are
16 sufficient stations available to handle the increased
17 load that may come about through additional CAP funding
18 and Moyer funding and the like. That's something I
19 would urge the agencies also to keep their eye on.

20 Tyrone.

21 MEMBER BUCKLEY: Thank you. I was also just
22 going to reiterate too that (inaudible) you've laid out
23 the primary reason (inaudible) because we are hearing
24 from folks that represent (inaudible) communities that
25 there might be a lack of access for folks in those

1 communities, and so we've looked at it two-fold and I
2 think the survey is one part of it and this is another
3 part of it, looking at the distribution of the centers,
4 and then the survey pool to actually get feedback from
5 consumers on whether or not (inaudible).

6 MR. TRIMLETT: Clarification. Again, I just
7 want to make a quick clarification. I was not making
8 any claims that there weren't adequate Gold Shield
9 stations or the distribution. The issue falls back to
10 can the person directed to test-only get to that Gold
11 Shield station, and the answer is I'm hearing as much
12 as 80 percent drop in business from station owners.

13 CHAIR WEISSER: Based upon the directed
14 vehicles?

15 MR. TRIMLETT: Based upon directed [skip].

16 MR. ARMSTRONG: Yes, my name again is Larry
17 Armstrong. There was virtually no mention of, I guess
18 it wasn't part of the survey, but in the Gold Shield
19 system the Bureau of Automotive Repair ended up
20 requiring that anyone that wanted to participate in
21 Gold Shield also had to participate in the CAP program.
22 They are two different things, should be two different
23 things and should be voluntary on both sides.

24 What we have ended up doing is, by forcing
25 the expansion of Gold Shield, took business away from

1 the people that chose to volunteer to do it and then
2 forced business on people that might not have chosen to
3 do that and might have chosen to participate in a Gold
4 Shield program that did not mandate part of the CAP
5 program. So I think when you're looking around the
6 distribution you might look for reasons for
7 distribution, because the supply and demand program
8 actually works. Some socialists might not believe
9 that, but it actually works if the parameters that are
10 set up are fair and equitable.

11 There's no opportunity to discuss this issue
12 or this survey by, I guess it's Form 10. To my
13 knowledge, is that the only money that has been
14 expended by this Committee for a vendor in searching
15 out information? I recall the Committee deciding that
16 there was no money to be spent, so areas that could
17 very well have used some outside expertise got none and
18 then we apparently spent some money on something that
19 probably somebody could have walked around on the
20 street and asked a few questions. I would like to have
21 a copy of what the questions were, because sometimes
22 that's more important than the answers. And I would
23 also like to know who the contact person was with this
24 Form 10, whoever that is. It seems odd to me that this
25 is the only thing that I know of that the Committee

1 spent any money addressing. I would like to have
2 access to that information, if I may.

3 CHAIR WEISSER: I don't see why the questions
4 – are the questions available?

5 COMMITTEE MEMBER: They are.

6 CHAIR WEISSER: I think they've always been.
7 We discussed them at one of the prior meetings.

8 Larry, our budget, as you know from earlier
9 discussions, the budget for the IMRC basically had, I
10 think the term would be 'no money available for a
11 consultant,' and through force of personality,
12 brilliance and persuasiveness, Jude and Rocky were able
13 to convince the agencies to string out a little money,
14 I guess, to help fund this effort, not nearly to the
15 extent (inaudible) that we were interested in. We
16 really wanted to do a study that we felt was long
17 overdue and wanted to just make a step in the right
18 direction.

19 Jude?

20 MEMBER LAMARE: Just to clarify, the Form 10
21 survey was contracted out by Rocky to a third party
22 contractor. I don't recall what the budget was, but
23 there's no other funds being expended for research
24 except for that contract.

25 Now, on the Gold Shield analysis, I just put

1 in a few hours of my own time to do that analysis and
2 write up a little report. UC Santa Cruz provided
3 information [skip] it's just a few hours of data
4 manipulation.

5 MR. ARMSTRONG: I'll ask again. How much
6 money was expended for this?

7 CHAIR WEISSER: Rocky, do you have an answer?

8 MR. CARLISLE: Approximately \$11,000.

9 MR. ARMSTRONG: Thank you. And I'd also like
10 to just state my opinion for the record is that this
11 Committee had a responsibility to do investigation and
12 to my knowledge never asked for the money, just assumed
13 that it couldn't get the money and never asked for the
14 money, and I really think that this Committee has been
15 neglectful in carrying out its duties in that area.

16 CHAIR WEISSER: Were that true you would be
17 correct, Mr. Armstrong, but it's not true. And as a
18 matter of fact, we are going to be in contact with the
19 agencies now in order to figure out how to handle
20 funding for the IMRC's responsibilities considering the
21 Governor's withdrawing the proposal to eliminate the 88
22 agencies that were proposed for abolishment. So we
23 need to sit down with BAR and CARB and figure out, if
24 we are going to be in existence, how do we get adequate
25 resources to support the efforts that we need, the

1 help? There are a lot of efforts that we had to forego
2 this year because of the absence of an adequate budget
3 for consultant services. Thank you.

4 MR. ARMSTRONG: I'd be happy to have you
5 prove me wrong. Just give me copies of the letters
6 where you asked for funds to fund the Committee's
7 needs, and that would be acceptable to prove me wrong.
8 Thanks.

9 CHAIR WEISSER: Okay. Where are we? Oh,
10 Chris, I'm sorry.

11 MR. ERVINE: Chris Ervine, Coalition of State
12 Test-and-repair Stations. First off, a CAP station has
13 to qualify with BAR to become a CAP station and they
14 have to be one of the higher performing stations in the
15 State of California. One of the main reasons [skip] in
16 talking to my members that there is a low interest in
17 CAP.

18 And let me say this. I am a CAP station and
19 I think that because we are a CAP station we have
20 become better at doing our job as far as reducing
21 emissions, because CAP asks a lot of questions.

22 On the downside of that, a typical job with
23 CAP will take from three to five days to complete.
24 Normally under normal circumstances we could get it
25 done in one day. The problem that we have is getting

1 authorization and getting it back.

2 One of the other problems that we have with
3 test-and-repair stations not being interested in CAP is
4 the amount of paperwork that's involved. A typical
5 smog inspection and repair will generate maybe seven or
6 eight pieces of paper. A CAP program will generate a
7 book, and this takes an awful lot of time, not only out
8 in the shop because you're on and off the job and then
9 waiting for it and everything, but in the office as
10 well.

11 One of the problems that we have is that CAP
12 only allows us two hours for diagnostics. This has
13 changed since the onset of the program. Originally,
14 the smog inspection was not included in it. Now we do
15 two smog inspections as part of the CAP diagnostics,
16 which leaves roughly an hour to do the diagnostics, and
17 I think something needs to be done there.

18 If they will take care of some of these
19 items, probably there will be more interest from the
20 test-and-repair industry in becoming CAP stations and
21 they will become a lot more available to the public.

22 The other problem we have is the public is
23 just flat not informed of the CAP program. I have
24 many, many customers that come into my shop that want
25 to get their cars fixed and they've never heard of the

1 CAP program. My solution to this is, any time a
2 vehicle is failed they must sign a letter saying that,
3 yes, they understand that they have been informed about
4 the CAP program and [skip]

5 CHAIR WEISSER: [skip] CAP program, all of
6 which I'm sure is there to protect the state against
7 fraud and misuse of taxpayer monies, but that might be
8 an area that might be fruitful for this Committee to
9 look into. Thank you very much, Mr. Ervine.

10 You have a question, Mr. Buckley?

11 Hang on, Chris.

12 MEMBER BUCKLEY: I don't necessarily have a
13 question but I would like to say that I think both your
14 point and Mr. Armstrong's point is something the
15 Committee should pay attention to as looking at the
16 reason for the distributions that we have, you know,
17 through Jude's report and finding out why some areas
18 have more Gold Shield stations than others. Maybe it
19 will come down to paperwork overload and timely
20 approvals. I don't know exactly how to go about
21 (inaudible) but I think that's something it would be a
22 good idea for us to spend some time looking at.

23 Also, I've also wondered about the
24 possibility of having CAP stations have someone sign a
25 letter that they've been informed about the Consumer

1 Assistance Program and I was wondering if anyone had
2 any insight as to the feasibility of that or maybe from
3 the industry standpoint or anybody else.

4 CHAIR WEISSER: I'm not sure whether we want
5 to engage in that now, Tyrone, or should we perhaps
6 wait until we hear back from Jude regarding the survey.
7 We have some information that she'll be soliciting from
8 the public and that might help us better understand how
9 to focus in on this issue of consumer information and
10 open up the door for an exploration of the kind of
11 station interface with the consumer as to whether that
12 would be perceived as a good idea. I just don't think
13 today might be the best time for us to do that.

14 I also would like to give the Department some
15 alert as to the interest of this Committee looking into
16 that, and perhaps be prepared at our next meeting when
17 Jude presents the results of the consumer survey to be
18 able to discuss this issue, because I'm almost certain
19 it's going to come up again in the context of the
20 results we get associated with consumer awareness on
21 the program.

22 John?

23 MEMBER HISSERICH: (Inaudible) When [skip]
24 necessary paperwork, information about family size and
25 income is fairly delicate information for folks. How

1 is that handled with the interaction with the consumer?

2 MR. ERVINE: Well, basically the CAP station
3 has nothing to do with that. When the people come in,
4 they can either get it online or they can come into our
5 shop and get it, but the application is available
6 online. A lot of low income people don't have access
7 to online information. But there's an application,
8 it's very short, and they can fill that out and then
9 they send it in to CAP applying for the program, and
10 currently it's taking about six, maybe eight weeks to
11 get authorization to have your car repaired.

12 CHAIR WEISSER: Excuse me, I must has
13 misheard because I thought you said six to eight weeks?

14 MR. ERVINE: Correct.

15 CHAIR WEISSER: Are you serious?

16 MEMBER HISSERICH: And so you as the shop
17 owner are not necessarily personally involved in
18 anything to do with level of income other than the
19 general that (inaudible).

20 MR. ERVINE: The only thing that we have that
21 involves the income is the letter that comes from CAP
22 will say whether they have a \$20 deductible, which
23 would be low income, or \$100 deductible, which would
24 be —

25 MEMBER HISSERICH: I just wondered

1 (inaudible) and I wondered what interaction took place.
2 Thank you.

3 CHAIR WEISSER: Well, this is certainly
4 [skip] the program and the interface between the
5 agency, the stations and the consumer. Thank you very
6 much.

7 Jude, I have one question for you. The
8 report in our booklet is labeled as a draft memo.
9 [skip]

10 MR. CARLISLE: We've discussed it with BAR,
11 yes.

12 CHAIR WEISSER: Okay, so the letter has gone
13 out. Is it available to the public, have they seen
14 this, and copies have been distributed?

15 MR. CARLISLE: Yes.

16 CHAIR WEISSER: Okay. I saw Mr. Pearman, did
17 you have something?

18 MEMBER PEARMAN: The letter that was here
19 from the station that talks about the ping-pong effect
20 and we kind of heard that from other, I guess station
21 owner groups, if you would, but I want to know, Rocky,
22 if you or if not could find out does the Bureau get a
23 significant number of consumer complaints about
24 ping-ponging?

25 MR. CARLISLE: I'm not aware of how many they

1 get or they don't get. I can check on it for you.

2 CHAIR WEISSER: Thank you. Could you find
3 out over a five-year period, Rocky, the — I'm sure that
4 BAR has a tracking system that tracks calls, letters
5 and whatnot, and perhaps they also have it broken down
6 into areas such as ping-ponging and other complaints.
7 I'd like you to prepare for us for next month in some
8 sort of compendium of already existing data associated
9 with consumer inquiries associated with the program.

10 MR. CARLISLE: Now are you talking about
11 complaints or are you talking about the ping-pong
12 itself? I mean —

13 CHAIR WEISSER: Well, I think Mr. Pearman was
14 interested particularly in ping-ponging, but I don't
15 know for one if comments come in and they are
16 categorized that way. It would be helpful if they
17 were, but they may not be. I also think the Committee
18 should be aware of the, not the absolute number of
19 complaints but I'm interested more in the trends over a
20 five-year period of consumer interactions with the
21 program, so any data that you could give us that would
22 help illuminate that would be helpful.

23 Are there any other questions on the part of
24 (inaudible)? Sir.

25 MR. MASOFF: My name is Richard Masoff, I

1 have a smog test-only shop in Solano County. I'd like
2 to address Mr. John Hisserich's question in terms of
3 how do the customers find out about the CAP program.

4 As a test-only, it's up to us when the
5 vehicle fails to explain the program. We have to sit
6 down with them and we have to be very delicate and we
7 show them the chart to ask them if you fall in this
8 category you are qualified for CAP or not.

9 One of the major problems I have with the
10 program is none of the test-onlys I know, and I know a
11 lot of them, talk about the CAP program. They send the
12 customers on their way or they send them back to the
13 repair guys and then it's up to the repair guys to talk
14 about the CAP. And it's one of those things where I
15 feel very strongly about it.

16 So, it's up to us as test-only to explain
17 what the program is about, how long it takes. Yes, it
18 does take between six to eight weeks. And it's up to
19 us to be able to follow up with them as a liaison to
20 get them in the CAP program. Thank you.

21 MEMBER HISSERICH: Thank you.

22 CHAIR WEISSER: Thanks for coming up and
23 sharing that.

24 MR. MASOFF: Thank you.

25 CHAIR WEISSER: Mr. Peters.

1 MR. PETERS: Mr. Chairman and Committee,
2 thank you for the second bite of the apple here. Last
3 Committee meeting I provided to you, Mr. Chairman and
4 the Committee, some proposed legislation that would
5 take CAP funds and determine how the program is working
6 and provide appropriate data and information to improve
7 how the public is being treated and to better evaluate
8 the program and to improve the performance of the
9 program. I think that's still an appropriate
10 consideration for the Committee and would petition the
11 Committee to give that some consideration to give you a
12 lot better data and information as to what's really
13 going on [skip] taking your car that is a failing car
14 and determining what it takes to fix it and seeing how
15 that car is handled in the marketplace could be very
16 beneficial to the Committee in making decisions as to
17 what is appropriate policy for the State of California
18 on Smog Check.

19 CHAIR WEISSER: Thank you, Mr. Peters.

20 - o0o -

21 Before we move to our next item [skip] and
22 allow some representatives from the Bay Area industry
23 to make any comments that they might have. These folks
24 have taken off a good part of their work day and we
25 need to give them an opportunity to make general

1 comments now. And with that, I will entertain a show
2 of hands from the people I don't usually hear from.
3 We'll start with the handsome gentleman in the bright
4 yellow shirt. And these comments can be on anything
5 you feel like sharing with the Committee.

6 MR. RICE: Thank you. My name is Bud Rice,
7 I'm with Quality Tune-up Shops. I left a letter in the
8 back of the room over here, I'd like to just take a
9 second and read it to you, if I could. Well within my
10 three-minute timeframe, I'm sure.

11 "One day last week at one our locations - we
12 have a number of Quality Tune-up test-and-repair
13 facilities - 27 customers came in for Smog Checks. All
14 right, 27 of them. 22 of them had been directed to
15 test-only. Out of 27, 22 had been directed to
16 test-only, 5 of them were testable by our location.
17 Out of the 27, 24 of them had a piece of our
18 advertising with them.

19 "(Inaudible) customers at our location was
20 paying advertising dollars for, customers on their own
21 looked, decided to come do business with us, and most
22 of them had to go down the street to a test-only
23 facility. These were members of the motoring public
24 who wanted to do business with us. This is the effect
25 the rules and regulations in our industry have on us.

1 "This particular location has two smog pieces
2 of equipment, \$80,000 in investment. The numbers have
3 been skewed and flipped to where originally it was
4 supposed to be 16 or maybe 20 percent of the cars going
5 to test-only. Don't worry, you guys will have
6 80 percent of the testing business. Don't sweat it,
7 don't worry about it. It's completely flipped around
8 now. We're the ones on the 16 or the 20 percent and
9 80 percent of the cars are going down the street to
10 test-only and it's having a tremendous effect, negative
11 effect on the repair industry.

12 "And if you think that testing cars is where
13 it's at, fixing cars is where it's at, and no one is
14 going to be around to do any of the fixing because
15 you're ruining the industry with some of these rules
16 and regulations and the way that they're applied."
17 Thank you.

18 CHAIR WEISSER: Stay up there.

19 Mr. DeCota?

20 MEMBER DECOTA: Would you provide the
21 Committee with a list of the year of the vehicles that
22 were sent to test-only, year, make and model?

23 MR. RICE: Certainly.

24 MEMBER DECOTA: And also of those that you
25 were able to test.

1 MR. RICE: Certainly, I'd be happy to do that
2 for you.

3 MEMBER DECOTA: Thank you.

4 CHAIR WEISSER: I want to explore the last
5 part of your statement, then I have a comment I'd like
6 to make.

7 You indicate the import of the program isn't
8 the test, it's the repairs, I mean in terms of the
9 economic viability to stations. Did I mishear you?

10 MR. RICE: Well, no, what I'm saying is that
11 the testing is an important component of all the
12 services that we offer. At the point where we can
13 provide those services we can also provide repair
14 services as well. At the point where you take that
15 huge segment away from us and our ability to provide
16 that, it puts at risk the other parts of our service
17 capabilities as well.

18 CHAIR WEISSER: So the cars that are going to
19 fail, assuming that the methods are comparable, you end
20 up or some percentage of those end up going to your
21 station. If they have to get repaired they're going to
22 some station to get repaired. But it's the income that
23 you've lost by having these vehicles directed to
24 test-only that puts the underlying financial viability
25 of your station at risk; is that the point you're

1 trying to make?

2 MR. RICE: Well, let me stand in front of you
3 and say, and I'm just going to speak about our
4 locations that I have a direct communication with, over
5 the time that these rules have been placed into effect
6 and the skewing of the numbers has started to flip the
7 other way, since probably October we have lost \$200,000
8 a month in revenue from testing. \$200,000 a month.

9 CHAIR WEISSER: I know of nothing, maybe the
10 Departments could clarify this for me, but I know of no
11 change that's taken place in the percentages that are
12 directed to test-only versus test-and-repair [skip]
13 unless — the Bay Area. Because the Bay Area went into
14 enhanced.

15 MR. RICE: Right.

16 CHAIR WEISSER: Got you. Got it.

17 MR. RICE: So if you don't think that's
18 having a dramatic influence on our operations, I got to
19 tell you, it is.

20 CHAIR WEISSER: No doubt. I understand now.
21 Thank you very much. Do we have another question?

22 MEMBER LAMARE: (Inaudible)

23 CHAIR WEISSER: Well, because you have a
24 heavy directed program as part of the Bay Area becoming
25 an enhanced location.

1 MEMBER LAMARE: (Inaudible)

2 CHAIR WEISSER: Implementation of the program
3 came incrementally.

4 MR. RICE: That's correct.

5 CHAIR WEISSER: And so it started at a very
6 low level and then was ratcheted up in line with the
7 statewide level.

8 Rocky, do you have a comment on that?

9 MR. CARLISLE: Yeah. The other thing is,
10 SB1107 kicked in January 1st, so that's impacting the
11 number of smogs he's doing as well.

12 CHAIR WEISSER: Thank you. And we have a
13 question from Bruce?

14 MEMBER HOTCHKISS: Not a question so much as
15 a comment, and I think one of the things that Mr. Rice
16 was trying to get at is, if the test-and-repair
17 industry is hurt adversely financially that there will
18 be fewer shops like his.

19 CHAIR WEISSER: That's precisely what I was
20 trying to —

21 MEMBER HOTCHKISS: And what a lot of people
22 might not get is that actually without the current
23 equipment it's difficult to do the diagnosis and
24 repair. I have a friend who buys and sells cars and he
25 had a car that failed at test-only and he took it to

1 his normal repair shop and they tested it on an old
2 BAR90 equipment and they said it's fine. He took it
3 back to test-only and it failed.

4 Unless the shop doing the repairs has the new
5 equipment, it's very difficult, and it's the
6 test-and-repair industry, if I'm getting your point,
7 the test-and-repair industry, if their income level
8 goes down and the numbers decrease, the number of
9 people actually able to repair the vehicles and certify
10 the repairs will diminish.

11 MR. RICE: That's correct. Put a fork in us,
12 we're done, folks.

13 CHAIR WEISSER: Thanks very much, but I
14 indicated I have a comment, and the one comment I have
15 is, of the 27 people who got notices, 22 showed up who
16 were told in their package don't go here; go there.
17 And that's telling me there's something going wrong in
18 our communications with the public, that the nature of
19 the information is not sinking in, it's not working.
20 (Inaudible)

21 MR. RICE: Well, Mr. Chairman, the truth of
22 the matter is, we're their smog station, so when they
23 got a notice to come get a Smog Check, they've done it
24 in the past, they know where to go, they know where
25 they're going to get treated like they want to get

1 treated, which is why they came to us. That's why
2 they're showing up in our lot. Thank you.

3 CHAIR WEISSER: Thank you.

4 Other questions? Sir.

5 MR. TARABINI: My name is Mike, I'm with
6 Speedy Oil Change and Tune-up. I've got two centers,
7 one in a Stockton location, one in the Pleasanton
8 location. What I'm handing out to you gentlemen is
9 just a synopsis of some information I put together.
10 The gentleman who just spoke before me addressed some
11 of his financial concerns and how it's impacting
12 (inaudible). I'd like you to have a good close look at
13 the hit that I've taken personally just from losing
14 smog from the time the BAR97 program came into effect
15 in Stockton and the time it came into effect in the
16 Alameda County area.

17 You're talking about the repair business.
18 These numbers in front of you do not discuss the amount
19 of business I've lost in repair and due to other
20 services the customers now take to other
21 establishments. When customers go to test-only, they
22 can have their oil changed at a test-only. I've now
23 lost another customer, okay.

24 This is a direct effect that is hurting me
25 personally as a family man. I've got two young kids

1 that I've made some decisions on hoping that I can give
2 them the opportunity to go to college. To be honest
3 with you, right now I'm almost ready to lose both my
4 businesses and the house, and that hurts me deeply. I
5 physically had an emotional breakdown three months ago
6 and I'm on medication because financially everything is
7 getting turned upside-down and I'm trying to make
8 decisions.

9 And you guys of the board [skip] what's
10 really going on. Nobody sees [skip]. BAR doesn't hear
11 about it. We hear about it when our customers bitch
12 and complain to us in the center, and they call us
13 thieves when they have to go to another center and
14 they're told they failed and they come back to us for
15 repairs and we say there's a problem. My car never had
16 a problem before; what's wrong with you guys?

17 There's a lot of problems out there. You
18 guys need to come out and sit in our establishment,
19 listen to the customers, see how many customers we're
20 turning away. That gentleman from Quality, he's not
21 joking. One of my advertisements I pay \$2,000 a month
22 for. You know what really pisses me off is when they
23 come in with that coupon and then I've got to give them
24 free advertisement to the test-only because that car is
25 directed to the test-only. They don't pay a dime for

1 that advertisement; I do, okay? Think about the
2 economic impact it's had on all of us as shop owners.
3 Nobody's thinking about that, not one person, okay, so
4 please take a close look at that.

5 The other thing I think I want to note here,
6 the CAP program, okay, there are some benefits. And
7 now it's taking more money out of my pocket. Right now
8 one of my centers could qualify, the other may not,
9 okay, so that means I lose another customer. And now
10 legislation just came out again, now (inaudible)
11 inspections after six years. Might as well take some
12 more out of my pocket. You don't have to smog your car
13 when you have to sell it. Take some more out of my
14 pocket. Why don't I just give you guys my business and
15 the deed to my house? Thank you.

16 CHAIR WEISSER: Thank you for your very frank
17 comments. I think these are issues that this advisory
18 Committee has heard about and I think some of the work
19 that we're going to be performing is aimed at trying to
20 illuminate the issues you raise and the rationale
21 behind the issues. Thank you.

22 MR. TARABINI: I appreciate that but I wish
23 it was looked at sooner before we all started losing
24 our businesses.

25 CHAIR WEISSER: I bet.

1 MR. TARABINI: Yeah, because I don't think
2 any of you would like to lose that kind of money and
3 worry about your home. If I took \$100,000 out of your
4 pocket instead of you paying your mortgage and paying
5 for your kid's education, you'd all be sounding just
6 like me.

7 CHAIR WEISSER: Okay. Ma'am?

8 MS. KREBS: My name is Madeline Krebs. My
9 husband I own a franchise of the Speedy Oil Change and
10 Tune-up of California. (Inaudible).

11 CHAIR WEISSER: Step back from the mike,
12 please.

13 MS. KREBS: — four or five hundred cars a
14 week. We employ between eight and ten employees. What
15 Mike said is absolutely true. All of our businesses
16 are taking a financial hit. We've lost in the last
17 three months (inaudible) \$10,000 and \$15,000. Not only
18 does it effect our own families, but we employ people,
19 people who depend on us (inaudible). We pay a hundred
20 percent of their health insurance and we pay vacation
21 time. With the loss of revenue we may not be able to
22 offer those benefits.

23 Again, you're state employees, you get your
24 benefits. Why can't our — you're not state employees?

25 MEMBER HOTCHKISS: I'm the only state

1 employee up here.

2 CHAIR WEISSER: And he's buying lunch.

3 MEMBER HOTCHKISS: And I qualify for CAP.

4 MS. KREBS: We can make light of this, but it
5 is very serious. It is impacting everybody
6 financially, but it also impacts us emotionally because
7 we are dealing with the customer complaints.

8 The ping-ponging issue is a reality, and like
9 what Mike said, you don't hear about it because they're
10 yelling at us. And why are they ping-ponged? We did
11 have our customers sign a petition, and in just two
12 weeks we have seven pages of signatures of our
13 customers. These are real people that you can contact.
14 We also sent letters to our representative, to the
15 Governor stating our concerns, so we have this letter
16 for you as well. I'd like to enter it into the record.

17 Would you please listen to us. Please take
18 into consideration the emotional [skip] and the
19 financial [skip].

20 CHAIR WEISSER: I really hope you and others
21 in the audience leave today with the sense that each
22 and every person on this Committee actually does listen
23 to you. We may not always agree, but I guarantee
24 everyone up here is listening.

25 What you've described and what people who

1 have preceded you have described is one of, to me, the
2 most difficult, challenging and often disappointing
3 parts of a government program that interfaces with the
4 private sector. And if that initial establishment of a
5 sense of certainty so you can figure out is this
6 business going to be able to make money or not? Can I
7 hire another person or shouldn't I? And if you go in
8 feeling often relatively certain of what the factors
9 you're going to have to deal with are, only to see them
10 shift at a later date after you've made the investment,
11 after people have made life decisions, is a very, very
12 troubling situation for my mind and one that I think
13 deserves an awful lot of scrutiny. This is an example
14 where that sense of certainty has been washed away in a
15 variety of program changes that have obviously impacted
16 a whole bunch of people. We're aware of that.

17 Are there any comments from Committee
18 members? If not, we'll take other questions and
19 comments. Sir?

20 MR. ZOOK: Thank you, Mr. Chairman and
21 Committee members. My name is Dan Zook and I'm the
22 chief operating officer for the Speedy Oil Change and
23 Tune-up chain, and really all I came up to sort of
24 dovetail on, I know a lot have only been up here one at
25 a time, and as a couple of them already have said, it's

1 been a pretty emotional story, but I can tell you
2 personally that that story is no different from between
3 the 40 shops that I oversee in California, it's the
4 exact same story. The statistics are no different.

5 Sitting back here and listening to a few of
6 the suggestions which I think are good about looking to
7 see if the Bureau of Automotive Repair has any
8 statistics on complaints, there's other things that
9 have to be looked at too. Some of the statistics that
10 I know that were presented in front of you today where
11 it actually shows a business owner's loss, where over a
12 course of a year it's 20 percent of their income or
13 more, or 20 percent of their sales, those are real
14 numbers.

15 It doesn't take a rocket scientist to figure
16 out if you invest \$50-100,000 worth of equipment, you
17 can't do \$50-100,000 worth of income or sales. It's
18 only a very small percentage of that is profit that
19 would go to pay off that equipment and stay in
20 business. So it does not make financial sense for
21 these people to stay in the business, just like
22 somebody stated earlier. It's going to be a
23 catastrophe down the road. It could be six months, a
24 year, two years, there will be a catastrophe. If
25 somehow these numbers don't revert back to what they

1 used to be, I don't think there's going to be any
2 argument from anybody that doesn't think there is a
3 value in a test-only station. The argument is how the
4 numbers have gotten skewed to where the customers are
5 being told here's where you have to go.

6 I'm going to address one more issue and that
7 again is the ping-ponging issue. When it gets down to
8 doing the research, like I started to mention a second
9 ago, where you check on BAR complaints, I think we all
10 know, and I don't know what the statistic is, the
11 actual number, but the percentage of people that bother
12 to complain is very small versus the people that really
13 get upset, so if anybody wanted to do a bit of research
14 where they went into any shop, it could be a Quality
15 Tune-up, a Speedy Oil Change or you name it, on a busy
16 day and saw one of those 22 of 27 and asked that
17 consumer, well, how do you feel about having to go
18 somewhere else?

19 And you can call it miscommunication. It's
20 not just miscommunication. They've built up a trusting
21 relationship with this person in town. Now they have
22 to go somewhere else. Well, take it one step further.
23 How about if that person fails at that test-only
24 station? Now they have to go back to a repair station.
25 They repair the car. Now what does that person have to

1 do? They have to go back to the test-only station. So
2 that's three trips for one person.

3 [skip] signing these petitions [skip]
4 facilities, but I would be willing to bet that all 5800
5 test-and-repair facilities in California feel the exact
6 same way without a single exception.

7 Thanks for your time.

8 CHAIR WEISSER: Thank you.

9 MEMBER WILLIAMS: Can I ask a question?

10 CHAIR WEISSER: Yes, please, Jeffrey.

11 MR. ZOOK: Sir?

12 MEMBER WILLIAMS: What's your estimate of
13 ping-ponging as a fraction of customer (inaudible)?
14 And let's be precise what ping-ponging is. It's not
15 that someone shows up and then finds that he has to go
16 to test-only, but test-only to test-and-repair to
17 test-only seems to me the definition of ping-ponging.
18 How often does that happen?

19 MR. ZOOK: I don't have those numbers, but I
20 would venture that the Bureau would, and the reason I
21 say that is you have to know how many people –

22 MEMBER WILLIAMS: What's your impression?

23 MR. ZOOK: I have no impression, I really
24 don't. I know how many people – the initial ping-pong,
25 which to me it's still whether you miss my volley, I

1 have somebody who came to me and now they're going to
2 you – when I say you I mean a test-only station. That
3 is still ping-pong. Now whether it comes back and
4 that's a statistic you want, that will depend on how
5 many people failed at that test-only station. That has
6 to be a statistical number that's available through the
7 computer system on the smog test program.

8 CHAIR WEISSER: Okay. One of the issues I
9 guess I want to address is the notion of consumer
10 complaints actually indicating the number of irate
11 consumers. I've managed consumer interface
12 organizations, I know that's not the case. You've got
13 to be really ticked off before you file a complaint.
14 But it will give a trend data year to year of how many
15 people are really ticked off enough so they're going to
16 file a complaint, and it might be illuminating. I'm
17 sure that information had to be presented in the
18 legislative oversight hearings that you guys had last
19 year, so I suspect you have this information available.

20 Other comments? Dennis, you have something?

21 MEMBER DECOTA: (Inaudible)

22 CHAIR WEISSER: Dennis is making an inquiry
23 whether he has the right to go out and stand at the
24 podium to represent the constituent, the consumer from
25 the Bay Area, and my answer to you is, yes you do, but

1 not right now.

2 MEMBER DECOTA: Okay.

3 CHAIR WEISSER: I want to let folks in the
4 audience chat and you can go after them, and recognize
5 you'll be keeping us from lunch.

6 We'll go to this gentleman.

7 MR. GIUSTI: Mr. Chairman, thank you for the
8 opportunity to address you and the Committee. I'm the
9 gentleman that wrote the letter earlier that I gave to
10 you about the ping-pong effect. My name is Ken Giusti,
11 I own and operate a Speedy Oil Change and Tune-up in
12 Vallejo, California.

13 A couple things. I know you read it and I
14 don't want to get into a lot of the details, but a
15 couple things I need to add to the documentation that I
16 gave you today is I showed some numbers from November
17 of '93 for one month versus November of 2004. If you
18 look at that number, it's almost 50 percent decreased,
19 and if you just do a (inaudible) on that, that's about
20 over \$160,000 in lost revenue for me per year. But
21 those are very conservative numbers. What I did not
22 show you, if you look at those numbers it basically
23 says that I'm doing, back in November of '93 I was
24 doing approximately 55 to 60 cars a week in test-only.
25 Now it's down to about 25 to 35.

1 But let's back up a little bit. Let's go
2 back to year 2002. And you're welcome to confirm this
3 by pulling the records up. I literally was doing about
4 100 to 125 a week, smog tests, so I dropped even more
5 since this enhancement came in. I could live with
6 that, but I can't live with the decreases down even
7 further from one year to another.

8 You know, I'm willing to talk about the
9 effect it has to the consumer. How does it effect me
10 just in the test-only? I mentioned ping-pong, but just
11 the test-only is lost revenue to myself.

12 I'm willing to invite this whole Committee
13 out to my shop after I run a full-page ad to the public
14 that says today only free smog checks, and I would love
15 to have you there as well as the radio and the TV to
16 see the number of free Smog Check customers that will
17 pull up to answer my special, and it would be amazing
18 for you to see how many people get turned away. Thank
19 you.

20 CHAIR WEISSER: Thank you very much. The
21 gentleman in the leather jacket.

22 MR. ACCARBO: Thank you for allowing me to
23 speak. My name is Robert Accarbo, I'm also a
24 multi-store owner, two centers in Livermore. The
25 ping-pong effect has definitely put a hindrance on our

1 customer relationship from my center to directly with
2 my customers, and I think it's inaccurate and going to
3 be ineffective to pull previous surveys of complaints
4 logged. Maybe you guys should think about doing
5 something along the lines [skip].

6 It's no secret people don't read their
7 renewal slips, and I get plenty of customers that come
8 in and it's like, hey, read your paperwork. Maybe go
9 an extra step and put something there of, hey, [skip]
10 inconvenience. Because, you know, I'm tired of being
11 the bad guy, and that's aside from the fact that I have
12 lost 80 percent of my smog business.

13 I'm a 27-year-old guy, I run two centers. I
14 didn't get to where I'm at by being an idiot. You
15 know, like one of the other guys said, it doesn't take
16 a rocket scientist to figure this stuff out. So I
17 thank you for your time.

18 CHAIR WEISSER: Thanks for coming. We'll go
19 Randy and then Charlie and then we're going to take a
20 break -- no, then we're going to have --

21 MEMBER DECOTA: A point of view (inaudible).

22 CHAIR WEISSER: Okay. Excuse me. Randy, I'm
23 going to ask you not to make a comment right now, and
24 in fact what I'm going to do is limit the comments
25 before lunch to the Bay Area contingent, and for

1 Mr. DeCota as a Bay Area contingent, I want that timer
2 started exactly the first time he takes a breath.

3 MR. DECOTA: This consumer is a Bay Area
4 resident, she lives at 11 Green Lawn Court in Petaluma,
5 California, and her name is Laverne (inaudible). She
6 is 80 years old. She lives independent upon her
7 daughter and her son for her income. She's on Social
8 Security, that's her only source of income. She has a
9 1993 Cadillac. That 1993 Cadillac was directed to
10 test-only. The car failed due to a NOX situation. She
11 took the car from there to a test-and-repair facility.
12 She had the car repaired, took it back to the test-only
13 facility, the failed again for a different problem
14 within 2/100ths of passing. Then that car was sent
15 back to the test-and-repair. The test-and-repair
16 tested the vehicle, again it passed, after repair pass.
17 She was then forced to go back to test-and-repair [sic]
18 and then it did pass.

19 Okay. Smog test cost, \$456. 80-year-old
20 woman. Repair labor, \$215. Parts, \$148. The car
21 needed to be repaired, okay? That lady was without her
22 car for six days. She had no way to be shuffled back
23 and forth without her children doing so to the
24 test-and-repair and the test-only agencies. She could
25 not wait for the vehicle because of the waiting times

1 in the repair, so she had to take the time and have
2 them take time off from work to wait in these
3 facilities to take her back and forth.

4 If I hadn't testified today I was going to be
5 in big trouble because this is my mom, okay, and
6 (inaudible).

7 CHAIR WEISSER: Mr. DeCota, could you please
8 remain up there. There may be some questions and
9 cross-examination from members of the Committee or the
10 audience. Thank you, Mr. DeCota.

11 We'll go Mr. Ward, Mr. Peters, Mr. Trimlett,
12 Mr. Lunch.

13 MR. WARD: Thank you, Mr. Chairman, members
14 of the Committee. I think something needs to be
15 pointed out with regard to the Bay Area contingent. I
16 appreciate the fact they've organized themselves and
17 come up here and discussed their war stories.

18 The story that needs to be told, and Rocky
19 can tell it better than first-hand anyone because he
20 [skip]. They were told how many cars they were going
21 to get, they were told it was going to be 36 percent
22 directed to test-only.

23 Now, you know, you can't protect people from
24 themselves, and in this case that's what you're doing.
25 I mean, I recognize it's a difficult decision and I

1 also recognize it's difficult when you're losing money,
2 I recognize it's difficult when you're turning away
3 business. The bottom line is, the numbers were laid
4 out. I find it fairly ironic that since the fifth and
5 sixth year model exemption and the four-year-old and
6 newer change of ownership exemption you now have the
7 contingent here.

8 Now, the test-onlys are suffering in the Bay
9 Area as well, and I can bring a contingent of
10 test-onlys that are losing business, many of whom have
11 investments that are very significant. Also, they have
12 no other way of making money. You have a cup half full
13 when you're in the test-and-repair industry, you've got
14 another way to fill that cup up. When you're in the
15 test-only industry, you don't. So the Bay Area is
16 clearly a crime that was committed by the state against
17 business owners, both test-only and test-and-repair.
18 Thank you.

19 CHAIR WEISSER: Thank you, Mr. Ward.

20 Mr. Peters.

21 MR. PETERS: Mr. Chairman, Committee, my name
22 is Charlie Peters, Clean Air Performance Professionals
23 and I'm here representing motorists.

24 The Committee's handout to the people that
25 have showed up today and how you really care about

1 hearing all of this, this Committee has been presented
2 these concerns for a decade, continuously, and I
3 believe that it's absolutely disingenuous to tell the
4 people who have taken a day off from their business and
5 come here today that we really care and that we're
6 doing the best that we can, because it's not true. All
7 of these discussions have been going on in this room
8 and throughout the State of California since 1990.
9 This is 2005. There is no justification for test-only
10 in California. There is no requirements in the federal
11 government that we have test-only whatsoever. And the
12 facts are that test-and-repair is twice as effective as
13 test-only, that's a fact. So Mr. Chairman, I challenge
14 your comments to these people here today, because it's
15 not true.

16 CHAIR WEISSER: Thank you. Mr. Trimlett.

17 MR. TRIMLETT: Len Trimlett, smogfrfg. Once
18 again, Mr. Randall Ward cannot testify test-only
19 because he cannot tell me how many tons of pollution
20 test-only ever got out of the air. That is zero.

21 Now, over and over in these conversations you
22 have heard repeatedly that smog stations are losing
23 their investments in their business. You're going down
24 the road, the quote is the light at the end of the
25 tunnel is an oncoming train. You're rapidly converging

1 on an oncoming train. If you don't do something about
2 this test-only situation and correct it, you're going
3 to be that oncoming train.

4 Now, again, when you talk about how much
5 business is actually lost to test-and-repair stations,
6 you have to remember that not only is it the difference
7 between 15 and 36 percent, but others are saying as
8 much as 80 percent. In addition to that, I don't think
9 that it was factored in the items that come under
10 warranty repair.

11 Dennis, I think this would be one you could
12 address. How much is actually lost where you have to
13 send customers to the dealer for a warranty repair that
14 you can't do because it is covered under warranty? I'd
15 like to hear your thoughts on that, Dennis.

16 MEMBER DECOTA: Well, if a car is covered
17 under warranty it's automatically the industry's
18 responsibility to notify that consumer they have a
19 warranty for that malfunction and they should return to
20 the dealership. I can't answer, I wish I could, to
21 give you percentage-wise on that.

22 MR. TRIMLETT: You're losing business for
23 warranty repairs, right?

24 MEMBER DECOTA: The consumer pays for that.

25 MR. TRIMLETT: But you lose a customer.

1 MEMBER DECOTA: The consumer pays for that
2 when they buy the car, they expect that repair to be
3 made under warranty.

4 MR. TRIMLETT: Okay. Thank you.

5 MEMBER DECOTA: Thank you.

6 CHAIR WEISSER: Thank you, Mr. Trimlett.
7 Well, as I indicated, we now have an appointment with
8 Mr. Lunch.

9 Chris, do you have something that you want to
10 say now or can it wait until after lunch? Your call.

11 MR. ERVINE: I'd like to say it now so you
12 can chew on it during lunch. First off, I'd like to
13 thank all these gentlemen for showing up today so that
14 we can kind of put some faces with the statistics that
15 I've talked about over the years.

16 One thing that I would like to clarify here
17 is these gentlemen were all talking about ping-pong,
18 and I think they're using the term incorrectly, because
19 their feeling about ping-pong is that they came to them
20 for the test and they had to send it to a test-only and
21 then the test-only failed it and it came back to them
22 and they repaired it and then sent it back and it
23 passed.

24 The real definition of ping-pong is it came
25 to them, it went to test-only, it failed and came back

1 to a shop, it was repaired, it went to test-only, it
2 failed, and that's the real definition of it. So these
3 gentlemen were using the term incorrectly and I just
4 wanted to clarify that with the Committee so that you
5 were clear on what they were talking about. Thank you
6 very much.

7 CHAIR WEISSER: Thank you.

8 MEMBER DECOTA: Chris, do you feel the
9 consumer feels that that's what ping-pong is?

10 MR. ERVINE: The consumer —

11 MEMBER DECOTA: What does the consumer feel
12 ping-pong is?

13 MR. ERVINE: Ripped off.

14 CHAIR WEISSER: No, I think the answer,
15 Dennis, is attempting to extract attitude by leading
16 the witness in an expert way. I as a consumer and I
17 think everybody in this room as a consumer would say
18 the ping-pong game feels like it's starting when you
19 show up at the place you think you're supposed to go to
20 and they say, no, you have to go there. And now you
21 have a technical definition of ping-pong, which is the
22 one that I heard five, ten years ago when I first heard
23 about the ping-pong problem before I was associated
24 with this Committee, but I think the consumer just
25 feels like they're getting passed around.

1 MR. ERVINE: I think you're correct.

2 CHAIR WEISSER: I want to say – thank you
3 very much, Chris. I want to say a couple things.

4 It is really important that, particularly for
5 the folks who have come up today (inaudible) come up
6 here to recognize a couple of things, and the first is
7 the name of the folks that you're speaking to, the
8 California Inspection and Maintenance Review Committee.
9 Review Committee. Our job, our statutory charge is to
10 try to review the program, review the reports that BAR
11 and CARB put out and see if we can come up with ideas
12 for program improvement. We're an advisory committee,
13 we have no statutory authority to do anything other
14 than to provide advice and a place for you to provide
15 us with your advice and your suggestions.

16 The second thing that I guess I want to put
17 out on the table before you folks head back west is,
18 for us to feel confident in making a recommendation
19 associated with the program, we need to do due
20 diligence in terms of looking at as many facts as you
21 can gather in a reasonable period of time. We're not
22 looking for some magical black box that you can jam
23 numbers in and it's going to spit out the right answer,
24 but we want to be informed in the recommendations that
25 we make by the best available data.

1 One of the issues that I've heard for the two
2 years that I've been on this Committee, on and on and
3 on, has related to this issue associated with test
4 versus test-and-repair, the direction of cars to
5 test-only. The rationale that we have heard as to why
6 that exists is based upon a perception that the
7 test-only facilities will tend to fail more cars, which
8 will have a more positive impact on air quality [skip]
9 if in fact you normalize that data for similar
10 vehicles, that assumption that has been carried forward
11 by the USEPA and other agencies is accurate or not. We
12 need to find that out, and that's an important element
13 of the research work that we're doing, without a
14 research budget, I might add.

15 Okay. I've dumped my stuff I needed to
16 share. I want to express my appreciation for you folks
17 coming up and sharing your perspectives with us, and in
18 contrast to Mr. Peters, I once again can assure you
19 that we were listening to what you were saying.

20 We're going to take a break now, it's five
21 after. We'll reconvene at one o'clock. Thank you.

22 **(Noon Recess)**

23 **- o0o -**

1 with the first cycle of tests as it appears in the
2 pass/fail traits of the next time around, so I hope
3 there will be some very interesting things.

4 Before, I had done some analysis and reported
5 on it, and it was more about the types of stations and
6 so forth. I could do some more of that, but the real
7 analysis will have a focus on tracing the same vehicle
8 to know something about its history, mileage, repair
9 records, whatever, to see what's happening. I have no
10 idea what the results will be, but I'm sure they'll be
11 interesting.

12 CHAIR WEISSER: I'm sure, too. Will you be
13 able to isolate those vehicles who went to a test-only
14 facility on one occasion and then to a test-and-repair?

15 MEMBER WILLIAMS: Yes, I will.

16 CHAIR WEISSER: Mr. DeCota?

17 MEMBER DECOTA: [skip] may have been failed
18 and later (inaudible) notification or any (inaudible)
19 of repair?

20 MEMBER WILLIAMS: Yes. May I add that the
21 records allow for that but maybe there's no marking of
22 it, but there's another piece of information which is
23 how long between tests. Once I know when tests
24 occurred, it strikes me as unlikely that a test that
25 began 30 seconds after the previous one involved much

1 of a repair, so I'll be able to review that sort of
2 analysis (inaudible).

3 CHAIR WEISSER: Robert?

4 MEMBER PEARMAN: Perhaps Rocky could help me,
5 but going back to some earlier comments about
6 (inaudible), isn't there some agency study going on
7 about the stations (inaudible) Gold Shield (inaudible)
8 apart from (inaudible)?

9 MR. CARLISLE: No, only the one that Jeffrey
10 was doing.

11 CHAIR WEISSER: Yeah, please come up.

12 MS. MORROW: Sylvia Morrow with the
13 California Air Resources Board. We are looking into
14 the issue of test-only in comparison to
15 test-and-repair. We realize that there are actually
16 two issues here. One is the failure rates; do more
17 cars fail at test-only in comparison with
18 test-and-repair. And then the second assumption we had
19 made when ARB and BAR first was starting the program
20 was, is that car that goes to a test-only station
21 repaired to a lower level. So right now we're getting
22 ready to start the process of looking at the second
23 half of the equation, are cars that go to test-only
24 stations repaired to a lower level than those that go
25 to test-and-repair.

1 CHAIR WEISSER: You mean the performance of
2 the test of the car in the test where it passes, you're
3 going to try to see if there's a difference between
4 those which have failed at test-only then are referred
5 to a test-and-repair and get repaired versus those that
6 failed at a test-and-repair and then get repaired at
7 the test-and-repair.

8 MS. MORROW: Well, we're still in the process
9 of developing (inaudible), but there are still cars
10 that go to test-only stations, get their repairs done
11 and get their certification at test-only also, so we
12 need to take a look at the whole gamut. But like I
13 said, there is a second half of the equation here of
14 the assumptions that we had made in the SIP.

15 CHAIR WEISSER: And could you give us a sense
16 of the timeframe for your analysis?

17 MS. MORROW: We're in the process of
18 developing an RFP that will hire a contractor to take a
19 look and then we'll be doing a contract after that.

20 CHAIR WEISSER: Would you be able to share
21 that RFP with this Committee or get our input or
22 thoughts?

23 MS. MORROW: You know, I'd have to check on
24 that.

25 CHAIR WEISSER: Will you, please?

1 MS. MORROW: Okay.

2 CHAIR WEISSER: And could you let us know or
3 be prepared next month perhaps to let us know what the
4 real implications are in terms of the SIP demonstration
5 of attainment process of the percentages of cars that
6 are directed to test-only versus test-and-repair?

7 MS. MORROW: The SIP demonstration –

8 CHAIR WEISSER: Well, is there a potential
9 loss of credits associated with the SIP, a potential
10 loss of credits for the Smog Check Program were a
11 smaller number of cars shifted or directed to
12 test-only?

13 MS. MORROW: Well, currently we have a
14 commitment with USEPA to direct 36 percent, so if that
15 number was lowered we would not be meeting our SIP
16 commitment.

17 CHAIR WEISSER: I don't mean this in either
18 an argumentative or offensive way –

19 MS. MORROW: No, no.

20 CHAIR WEISSER: – but I don't care about your
21 existing commitment. I want to know whether there is
22 statutory direction or regulatory guidance that
23 requires USEPA to somehow adjust the credit for the
24 Smog Check Program based upon the percentage of cars
25 that are sent to test-only. I need and I think this

1 Committee needs a better understanding of how that
2 works [skip].

3 MS. MORROW: I'll just have to see exactly
4 who we need to bring to talk about it.

5 And a clarification on another issue is with
6 the RFP. We are going to issue an RFP for, like I
7 said, for the contractor to develop how to look at this
8 analysis, and we are planning on having the IMRC
9 Committee take a look at our thought process of how
10 we're going to look at the difference between test-only
11 and test-and-repair and get your comments before we go
12 forward with an evaluation.

13 CHAIR WEISSER: Well, thank you, that's
14 outstanding. Presuming of course the IMRC stays in
15 existence. As everyone here probably knows, the
16 Governor has pulled back his proposal to eliminate 88
17 boards and commissions, the IMRC being one of them, but
18 I still think we're kind of in Never-Never Land. Our
19 intent, of course, is to work until we aren't any
20 longer.

21 MS. MORROW: Okay.

22 CHAIR WEISSER: I would also ask you or ask
23 Rocky to make contact with the USEPA to make sure it
24 has someone here for the next meeting and on the agenda
25 I'd like to have an item for, well, I guess this would

1 fall under the discussion of the comparison to
2 test-only, but I specifically want to get a better
3 understanding of the implications of any changes that
4 are made to California's directed program on the SIP
5 credits.

6 The fact that we have an agreement with the
7 feds is important. We love to honor our agreements,
8 but if the agreement was based upon data that no longer
9 is considered to be accurate or relevant, then it's
10 time to question the agreement.

11 MS. MORROW: Okay.

12 CHAIR WEISSER: Thank you. Question,
13 Mr. DeCota.

14 MEMBER DECOTA: I asked an earlier question
15 with regards to waivers, that maybe ARB needs to, if
16 they could, help us with. One is, how many one-time
17 waivers are given each year?

18 MS. MORROW: The repair cost waivers, if you
19 look on BAR's website on their executive summary, you
20 can get that information on a yearly basis. I want to
21 say, and this may not be correct, that it's around
22 20,000 a year, but I'm not sure, but that is an
23 appropriate place to look. It's a very small portion
24 of the entire fleet.

25 MEMBER DECOTA: What percentage would it be

1 of the failing fleet?

2 MS. MORROW: You know, I'd have to look at
3 the numbers.

4 MEMBER DECOTA: Can you help us with that,
5 though, can you give us that information?

6 CHAIR WEISSER: Or direct Rocky to where it
7 can be found?

8 MS. MORROW: Yeah. Rocky knows where to get
9 it.

10 MEMBER DECOTA: I have one other comment.

11 MS. MORROW: Okay.

12 MEMBER DECOTA: And again, I'd like to know
13 on those waivers who and what are the cars, what type
14 of cars they are, the year, make and model.

15 MS. MORROW: That would be a BAR question as
16 far as like what their data says and what year the car
17 is. Most likely they're probably older cars, but I
18 don't have that information.

19 MEMBER DECOTA: Okay. Anything you can do to
20 help support that to Rocky would be appreciated.

21 MS. MORROW: Okay.

22 MEMBER DECOTA: Thank you.

23 CHAIR WEISSER: I want to make it clear that
24 I am not at this point prejudging the results of
25 anything that Jeffrey is working on, but I do want us

1 prepared once we receive that information and have had
2 the time to review it and understand it, I want us
3 aware of what other implications we need to deal with
4 in terms of arriving at a recommendation, so try to
5 think of questions or issues that we need to consider
6 and try to get that out so the people know we're
7 thinking about them and try to get information in to
8 help educate us.

9 Okey, doke. Merely on this subject I see
10 three hands, and we'll start from the back and work
11 forward. Chris. The subject, Chris, is -

12 MEMBER LAMARE: What is the subject?

13 CHAIR WEISSER: - Jeffrey Williams' study on
14 test-only, test-and-repair, Gold Shield.

15 MR. ERVINE: I just want to just address
16 something that the young lady from CARB had said [skip]
17 between test-only and test-and-repair, to also look at
18 vehicles that failed at test-only and without any
19 repairs done whatsoever passed at test-and-repair.

20 CHAIR WEISSER: Thank you. Moving up, I
21 think Mr. Armstrong is next.

22 MR. ARMSTRONG: Yes, my name is Larry
23 Armstrong. Mr. Williams mentioned they had about
24 60 million data points on smog tests. I would just
25 like to say that immediately brought up in my mind that

1 there could be a caveat in there, because if a vehicle
2 was tested on a BAR90 machine, then subsequently went
3 through a test-only test and was tested on a different
4 machine, you've got apples and oranges that would make
5 it appear that test-only was more effective than
6 test-and-repair because you've got garbage for
7 information, so you've got to be very careful about
8 timeframes that things happened or you're going to end
9 up with me saying you've got garbage for information,
10 which I have a habit of doing and being able to back
11 up.

12 I'll say it again to this Committee. If you
13 look at the statute, the statute places the
14 responsibility for the Smog Check Program under the
15 Bureau of Automotive Repair, not the Air Resources
16 Board, so I am in continuous wonderment of why the Air
17 Resources Board is involved in this program because
18 they are not involved in this program by the statute.

19 The last thing I would say is that I doubt
20 that the ARB is going to stop searching for a vendor to
21 do an RFP, so I will say to you that Sierra Research, a
22 company that does this kind of thing, has been
23 continuously lobbying for test-only and contracted
24 test-only since as far back as I've been involved in
25 this program, which is longer than I think a lot of you

1 people have, and so I would be very concerned there if
2 I were you if that was the company that gets selected
3 as the vendor because they already have the answer
4 because they've been lobbying for their answer for a
5 long time.

6 CHAIR WEISSER: Thank you. Mr. Peters.

7 MR. PETERS: Mr. Chairman and Committee, I'm
8 Charlie Peters, Clean Air Performance Professionals.
9 What I'm going to say kind of sounds disjointed and
10 maybe backwards, but that's just the way I am.

11 I found it very interesting that we allocated
12 a portion of the meeting to take care of concerns of
13 specific people from a specific area, that I didn't see
14 had anything to do with the agenda of the meeting, and
15 I believe the responsibility that it's necessary to
16 address issues on the agenda, even though having said
17 that, I absolutely support an open process and people
18 being able to share their ideas, but it just doesn't
19 sound right to me that we just kind of go along and
20 decide what we're going to do in the Committee, to get
21 advice from attorneys who say you shouldn't do this,
22 advice that you can't lobby and so on, and just things
23 that keep coming out of the Committee seem to indicate
24 to me that we're doing a lot of these things and we're
25 taking actions behind closed doors and putting out

1 press releases to the press and so on and so forth that
2 the Committee's been advised is not appropriate, so
3 I'll come back to the issue that it is my impression
4 that setting aside the specific possibility of specific
5 people making comments is, aside from what I perceive
6 to be on the agenda of the meeting, may not be
7 appropriate policy for the Committee.

8 CHAIR WEISSER: Thank you, Mr. Peters.

9 - ooo -

10 I'd like to spend some time going through
11 what I think are five additional areas of inquiry that
12 I think that we are on and review the organization that
13 we did in a very hasty fashion at our last meeting to
14 make sure we're comfortable with who's working on what
15 and who's not working on what and see if there are
16 imbalances that we need to modify or make any
17 modifications on these, and also to invite some early
18 public comment on directions that they might like to
19 see us explore. Does that meet with the Committee's
20 approval for a mechanism?

21 So what I thought I would do is go through
22 the different areas, briefly talk about who is assigned
23 as the responsible subcommittee members, and then
24 invite some public input as to the direction that they
25 might like to see us explore or considerations they'd

1 like us to take into account, or anything else on a
2 particular issue. Does that sound okay? Hearing no
3 objections, might as well go through them in order.

4 Evaluate the effect of improper
5 preconditioning, false failure/false pass. Does this
6 require additional training or enforcement (inaudible)
7 preconditioning have emission reductions credit?

8 Is there anything you'd like to add to that
9 one, Rocky, in terms of the background before we get
10 into it? We have as assigned subcommittee members
11 Mr. DeCota and Mr. Hisserich.

12 MR. CARLISLE: I think there's actually a
13 second part to this, because under that we also, I
14 think, need to look at pre-inspection repairs
15 (inaudible). I don't know how the model, for example,
16 looks at pre-inspection repairs where a Smog Check
17 station will start the test, find something wrong
18 before they complete it and then repair it prior to the
19 first test being completed, so that may be a subset of
20 the same thing.

21 CHAIR WEISSER: Is there anything else you'd
22 like to add in this regard?

23 MR. CARLISLE: Other than the fact that I
24 have started a questionnaire and I'm going to work with
25 Dennis on it. I've just kind of drafted one out, and

1 if I may, I'd like to suggest that maybe we form a –
2 we've got a subcommittee within the IMRC, but maybe
3 incorporate, and I don't know if this is a reasonable
4 request, but maybe have several members of the repair
5 community review it with us so we can sit down and see
6 if from their perspective.

7 CHAIR WEISSER: I'm comfortable with the
8 members of the subcommittee meeting with members of the
9 industry as long as it includes all the players in the
10 industry or an opportunity for all the players.

11 MR. CARLISLE: Certainly.

12 CHAIR WEISSER: I don't want us picking one
13 side and not the other or that kind of thing. I think
14 that would be a great effort. I think they're the ones
15 that know what's going on.

16 I have a silly question. I note that Dennis
17 and John are the assigned Committee members. John,
18 this is no insult intended, but I don't know if you've
19 done a lot of Smog Check repair.

20 MEMBER HISSERICH: No, I have not.

21 CHAIR WEISSER: But I know another guy a
22 couple chairs down to my right has some experience
23 associated with enforcement of the issues and I'm
24 wondering whether or not you might be more of an
25 appropriate participant in this workgroup, Bruce, than

1 John.

2 MEMBER HISSERICH: I would concur.

3 CHAIR WEISSER: What do you think?

4 MEMBER HOTCHKISS: I would welcome the
5 opportunity to work with Dennis.

6 CHAIR WEISSER: Dennis?

7 MEMBER DECOTA: Let's do it.

8 CHAIR WEISSER: Okay.

9 MEMBER DECOTA: (Inaudible)

10 CHAIR WEISSER: Okay. So I guess I'm going
11 to be asking this of every one of our Committee members
12 that every month they ought to be prepared to kind of
13 tell us where they are, and next month, Mr. Executive
14 Officer, at the least I would like a work schedule for
15 each of the workgroups to get a sense of when they're
16 going to be completed and when issues are going to be
17 able to come forward.

18 Chris.

19 MR. ERVINE: Chris Ervine, Coalition of State
20 Test-and-repair Stations. I'd like to see that the
21 Committee address the preconditioning of vehicles for
22 smog. The major problem that we see in failures from
23 test-only to test-and-repair where they pass at
24 test-and-repair is it's quite evident that the vehicle
25 was never preconditioned properly, and I would like to

1 see something set up to where there is minimum
2 standards there that these vehicles have to be run for
3 a certain amount of time minimum before they are ever
4 tested, because one of the problems that we see is that
5 some of these test-onlys are doing a smog every ten
6 minutes and that vehicle never gets properly warmed up,
7 especially in the wintertime.

8 CHAIR WEISSER: Thank you very much. Are
9 there other suggestions people in the audience would
10 like to make for this subcommittee? Mr. Peters.

11 MR. PETERS: Mr. Chairman, I'm Charlie
12 Peters, Clean Air Performance Professionals, and I'm
13 here representing the interests of the motoring public.

14 I'm confused as to how you compare A and B
15 when you don't know whether A or B is valid or what's
16 the facts or what's real. Historically, when the Air
17 Resources Board was involved in these kinds of studies
18 there were test procedures ran, there were ways of
19 validating what the car was before it went out and got
20 repaired. The Committee was told that they could
21 receive information and data from the Air Resources
22 Board seeing if what was broken got fixed, whether they
23 analyzed what was broken before it went in. Without
24 some sort of better parameters as to what this data
25 means and what's valid and what's not, I don't see how

1 you can come up with any appropriate kinds of
2 conclusions without having some additional quality
3 control in here to determine what you've really got at
4 all.

5 So what I'm saying is, you need a full visual
6 and functional analysis of the cars, (inaudible) test
7 procedures involved in some segment of the study in
8 order to have any validity for the outcome of the
9 suggestions that you might make from the data that you
10 were given. Without having a baseline, I believe you
11 will have some difficulty in trying to come up with
12 some valid responses to this project.

13 CHAIR WEISSER: Comments from members of the
14 Committee? Jeffrey?

15 MEMBER WILLIAMS: I have one. Mr. Ervine
16 just made a proposal that there's a pattern that in the
17 winter months cars that are at very active test-only
18 stations should fail disproportionately, and that's
19 something that can be found right in the data without
20 any (inaudible).

21 MR. PETERS: From my personal experience that
22 may or may not be true, Jeffrey. I have seen a lot of
23 cars where you go taking additional warmup time and
24 they'll get better, some of them will get worse, so
25 that data from my perception and my viewing requires an

1 inspection and may without having a gold standard of
2 something really reviewing whether or not we have the
3 factory specification, what's broken, what the real
4 emissions are, I don't believe you'd come up with a
5 valid result.

6 CHAIR WEISSER: I guess — I'm not directing
7 this at you, Charlie, I'm directing this at the
8 Committee — that it would be interesting for me to know
9 why there should not be some sort of standardized
10 preparation process that test-only and test-and-repair
11 are all required to go through to normalize the
12 behavior of the equipment [skip], but that's something
13 I'm sure that Dennis and Bruce will illuminate us on.

14 Are there any other comments from the
15 audience? Before you come up, Dennis?

16 MEMBER DECOTA: I also, you know, as far as I
17 understand Charlie's comments. I also feel, though,
18 that there's a great deal of data available through our
19 executive officer that has already met the criteria
20 that he's spoken to, that if looked at in a different
21 light for a different purpose will reveal the
22 information that we need, so that being said, it's not
23 [skip] all over again.

24 CHAIR WEISSER: That's just how the situation
25 is. Okay, we're going to quickly go through the

1 audience, Larry, Chris, Len, and then on to the next
2 item. Larry.

3 MR. ARMSTRONG: Yes, my name again is Larry
4 Armstrong. I'm going way back and I believe I've asked
5 this question several times but I think it's pertinent
6 when you're asking these questions is, when does a car
7 pass? Does it pass when the machine says it passes or
8 are some shops somehow authorized to decline to let a
9 customer know that their car passes and demand further
10 repairs, which may be a good thing to do but it's not
11 legal in my opinion, and so that question needs to get
12 asked.

13 The question what repairs are made. I
14 recall, and I want to tread very carefully here because
15 I think you folks realize that I have never come up and
16 attacked one form of business against another and I'm
17 not going to do it now, and if I sound like I am, I'm
18 not, I'm just pointing out that there is a difference.

19 The Bureau of Automotive Repair as soon as
20 there was test-only, in a seemingly unrelated thing,
21 got very much concerned about muffler shops going out
22 and putting cats and O2 sensors on cars and those cars
23 then went back and passed, and that bounced into my
24 mind when the lady from the Air Resources Board was up
25 here because that might appear to be a repair that is

1 not a repair, and so if all you did was compare
2 reduction numbers, you could have that car in there
3 looking like you did a hell of a job and what you
4 really did very likely was rip the consumer off and
5 they didn't get any value at all for their money and
6 the benefit is short term, so somehow you've got to be
7 able to get those things out of there.

8 Well, I'm sure I've got other things if I'm
9 given a little bit of time, but you've got to be very
10 careful in setting up parameters of what you're looking
11 at because it's very easy to get subdued by information
12 that isn't really information and think you've got
13 something and you don't got it. Thank you.

14 CHAIR WEISSER: Thank you. Chris.

15 MR. WALKER: Chris Walker on behalf of the
16 California Service Station Automotive Repair
17 Association. I'm pleased to hear that you wanted to
18 include the pre-inspection repairs as part of item
19 number one in evaluating how often it occurs.

20 One of the things that I'm often frustrated
21 with is, that ain't the real world. You can't pop up
22 the hood, technician pop up the hood, see some
23 disconnected hoses and/or some obvious failing element,
24 and they'll seek to fix it before they put the car on
25 the test. Saves the consumer time, saves the consumer

1 money. It's the real world, it happens all the time.
2 Not every time does the technician put into the machine
3 that they did those repairs. It just takes time.
4 Again, that's the real world.

5 Instead of trying to make the real world
6 embrace Smog Check II, maybe Smog Check II ought to
7 spend more time embracing the real world. And in fact,
8 there are emissions credits being left on the table
9 every time a mechanic or technician does that. Those
10 are real air quality benefits that are being left on
11 the table.

12 So, as the subcommittee is looking at this,
13 what I'd like to not only understand is how frequent it
14 is, but if we get down to nuts and bolts and how many
15 tons of emissions it might be, if we can look at the
16 actual repairs that are being done and then make a bona
17 fide argument to the USEPA for some additional credits
18 for Smog Check II, because Smog Check II is achieving
19 those results but it's not taking credit for it because
20 the bean counters can't account for it. But we know
21 it's happening. Let's make some good assumptions
22 [skip] and take credit for it. Thank you.

23 CHAIR WEISSER: Thank you, Chris.

24 Mr. Trimlett.

25 MR. TRIMLETT: You're still missing another

1 element I think you can make some real progress on,
2 that's the subject of smoking vehicles. When I was
3 over in Oakland going down a street -

4 CHAIR WEISSER: Excuse me, Len. Does this
5 have to do with this item, which is dealing with the
6 preconditioning? If it isn't, I'd like you to hold it.

7 MR. TRIMLETT: It's - I thought I understood
8 it to be things that can be (inaudible).

9 CHAIR WEISSER: Well, in the preconditioning
10 study only.

11 MR. TRIMLETT: Okay, this is -

12 CHAIR WEISSER: Smoking vehicles?

13 MR. TRIMLETT: - smoking vehicles.

14 CHAIR WEISSER: Okay. I'd like you then to
15 hold that, write it down so you don't forget it, and
16 then at the end after we've gone through these five
17 additional study areas, we'll open it up for comments.

18 MR. TRIMLETT: I will be glad to do that and
19 I'll give you then my thoughts.

20 CHAIR WEISSER: Thank you. Are there any
21 other comments from the public? Anything further from
22 any Committee members on this? The new subcommittee is
23 happy and pleased?

24 - ooo -

25 Okay. The fourth item is determine causes

1 for program avoidance. This is currently composed of
2 Gideon and Tyrone.

3 Tyrone, why don't you give us a full and
4 complete status report?

5 MEMBER BUCKLEY: It's going to be real short.
6 I actually haven't spent a lot of time discussing this
7 with Gideon and I think that's a problem and we need to
8 reevaluate what we should do with this subcommittee.

9 CHAIR WEISSER: Rocky, is there anything that
10 you'd like to say associated with this determine causes
11 of program avoidance?

12 MR. CARLISLE: Other than the fact that it's
13 very complex compared to the others because there's so
14 many unknowns and we can attribute insurance
15 requirements and a lot of ancillary requirements to the
16 problem. It's going to be tougher than, I think, what
17 meets the eye when you first glance at it, although we
18 did comment on it in the report to the Governor.

19 CHAIR WEISSER: This one?

20 MR. CARLISLE: That's the one, you bet.

21 CHAIR WEISSER: I don't even remember what we
22 said other than it exists.

23 MR. CARLISLE: It exists and we would be
24 commenting on it in the next report, is what we said.

25 CHAIR WEISSER: Now there's a commitment that

1 I maybe should not have made after hearing what I'm
2 hearing.

3 Tyrone, we're among friends. Am I sensing a
4 reluctance to continue to invest your time in this or
5 some concern there?

6 MEMBER BUCKLEY: No, not at all.

7 CHAIR WEISSER: Or just that it's such a big
8 issue?

9 MEMBER BUCKLEY: It's a big issue and I have
10 yet to discuss it with [skip], although I do think we
11 can get today maybe a commitment from myself to meet
12 with Rocky and Gideon on what the next steps should be.

13 CHAIR WEISSER: That's all I think I want
14 today to hear. Any comments from Committee members?
15 We'll go to the audience. Mr. Stearns?

16 MR. STEARNS: Bob Stearns, president of the
17 Association of California Car Clubs, and my question is
18 on the program avoidance. I take that mean the street
19 rod and kit car situation?

20 CHAIR WEISSER: No, it's more oriented
21 towards those people who just fail to get Smog Checks.

22 MR. STEARNS: Oh, okay.

23 CHAIR WEISSER: And they disappear from the
24 system. You know, there's a whole variety of ways that
25 cars that ought to be included in the program

1 disappear.

2 MR. STEARNS: Okay, then my question is, is
3 there any action being done on the registration program
4 avoidance that has to do with the street rods and the
5 kit cars that we discussed at the meeting in November
6 (inaudible).

7 CHAIR WEISSER: Rocky, can you respond?

8 MR. CARLISLE: Just other than the attorney
9 general, no, we haven't pursued that any further at
10 this point.

11 MR. STEARNS: Oh, okay. So are we waiting
12 for somebody else to do that or is that part of your
13 mission?

14 CHAIR WEISSER: Bruce?

15 MEMBER HOTCHKISS: I've heard this, and this
16 is secondhand, that ARB is actually actively seeking
17 out some of the kit cars. That's all I know. They
18 have (inaudible) and are trying to track down some of
19 the ones that may have been registered improperly.

20 CHAIR WEISSER: Let me respond to that by
21 [skip] what we think we can have the greatest impact on
22 and try to focus on these things, and what we did at
23 the last meeting was identify those things that we had
24 been working on that are almost completed or that we
25 had committed to and that we want to complete, and then

1 at least one additional item that was seen by the
2 Committee members as a very high priority. We have to
3 kind of limit the universe of what we focus on because
4 if we try to focus on everything at once, we won't get
5 anything done.

6 MR. STEARNS: I understand that, but this was
7 a big issue and a big presentation in November of last
8 year and I thought maybe there would be some kind of
9 activity taken as far as the IMRC (inaudible).

10 CHAIR WEISSER: Not at this time.

11 MR. STEARNS: Okay, but (inaudible) or is
12 that up to the ARB or maybe our association?

13 CHAIR WEISSER: I think that the Committee,
14 after we get through this lump of seven work items,
15 then we need to step back and identify what's next for
16 us to look at. At that point we'll put that issue in
17 among other issues, two of which I've just added to
18 Rocky's agenda, and we'll have to do a triage and
19 figure out is this what we want to put our time into.
20 So we'll give it consideration, but whether or not the
21 Committee as a whole is going to think that's an issue
22 that we need to focus on, I can't predict it.

23 MR. STEARNS: All right, thank you.

24 CHAIR WEISSER: Larry.

25 MR. ARMSTRONG: Yes, my name is Larry

1 Armstrong. Assuming from what the chairman said, I
2 would suggest that the subject matter get expanded,
3 because there are loopholes that immediately enable
4 people to register a car in such a manner that it is
5 not taken to Smog Check.

6 And the issue of avoidance (inaudible) have
7 jumped up and are trying to do all of the U-Haul
8 vehicles that run around that are a substantial amount
9 of which are gasoline powered and registered in another
10 state and not subject to Smog Check, and in my
11 experience of renting those type vehicles, they don't
12 run very well, so I think maybe you ought to think
13 about expanding that horizon a little bit.

14 CHAIR WEISSER: I guess one of the things I
15 want to toss out to the public is that now and the next
16 few weeks would be an outstanding time to write to our
17 executive officer Rocky Carlisle with suggestions on
18 this and every other one of these items that we're
19 working on, suggestions on the scope of work or ways to
20 approach responding to the issues at hand. That would
21 be really helpful now in the beginning of this process
22 rather than later on. So thank you very much for that
23 suggestion.

24 Mr. Peters.

25 MEMBER LAMARE: You have a question up here.

1 CHAIR WEISSER: I'm so sorry. Mr. Hisserich.

2 MEMBER HISSERICH: Well, just on that point,
3 and I won't address U-Haul. I've been thinking about
4 the kit cars. We've heard reference to (inaudible)
5 vehicles and all that stuff. I think the thing that
6 concerns me about that, you know, there is the absolute
7 numbers of those vehicles, but it also can create
8 culture avoidance, that if you're connected, you're
9 wired, there may be a way around it, and that's the
10 kind of thing that I don't particularly like about
11 those is that, as I said, (inaudible) or culture
12 avoidance so that the whole idea of checking for smog
13 is something that creeps out at you, there's ways
14 around it.

15 CHAIR WEISSER: Good. Mr. Peters.

16 MR. PETERS: Mr. Chairman and Committee, I'm
17 Charlie Peters, Clean Air Performance Professionals,
18 here (inaudible) motorists.

19 In your report that you've just supplied to
20 the [skip] press release [skip] in your report, but I
21 think virtually everything there has to do with the
22 subject matter at hand versus avoidance. If you have
23 old cars, '66 to '73 cars, plus particularly hyper
24 Mustangs and cars of very special interests, Corvettes,
25 and the information that the Smog Check provider has is

1 invalid and he's required to follow that information
2 and falsely fail and falsely pass, the public pretty
3 quick knows how to get around this. (inaudible) advice
4 how do I register this out of state, how do I avoid
5 participating?

6 The credit and support for the providers of
7 the service in the State of California stinks, and
8 unless we address that issue, which the Committee has
9 not addressed that I've seen at all. We talk about
10 remote sensing and car crushing and splitting up and
11 test-only and so on, but we've not done anything to
12 evaluate and/or support professionalism and pride of
13 excellence within the industry. We have a complaint
14 based process that beats up the professionals and
15 supports the crooks, and we need to do something based
16 upon the list that is published in your report to
17 straighten out some of this stuff.

18 We've got U-Haul and all kinds of other
19 people. I heard a rumor that the Air Resources Board
20 has a comprehensive study of that subject matter on
21 U-Haul, and the Committee won't go ask for it. They
22 won't go ask for the information as to whether or not
23 we're fixing what's broken. You're continuing on your
24 same process and going to the same place continuously,
25 and I disagree.

1 CHAIR WEISSER: Thank you. Are there other
2 comments from the public? Okay.

3 - ooo -

4 Moving on to the next item on our list, which
5 is to improve station performance through tighter after
6 test repairs. You know, as I understand this issue,
7 it's to have a higher pass point for a car to pass if
8 it has failed in Smog Check. In other words, to repair
9 the car better than it would have to be repaired in
10 order to pass Smog Check the first time. The
11 intention, as I understand it, being that for the car
12 to pass at [skip] higher repair point, certain cars
13 would have to be repaired better, more lasting
14 hopefully repaired. Is that an accurate summary of
15 this one?

16 MR. CARLISLE: Yes, it is.

17 CHAIR WEISSER: And the folks that are
18 assigned on this are Dennis DeCota and Bob Pearman.
19 And I think I mentioned last week [sic] when we talked
20 about this, this is not an easy issue. This one is
21 really complex because of the conundrum it would place
22 the industry, repair industry in in trying to - you
23 think you have a hard time now explaining things to
24 your customers. Imagine trying to explain to them that
25 now the pass points, because you failed the test, the

1 hurdle is higher. The intention seems to be
2 (inaudible), then I would suggest that one of the
3 things the subcommittee is going to need to do is to
4 meet with the industry in order to solicit their
5 thoughts on this and how it might work.

6 Rocky, you have something you want to add?

7 MR. CARLISLE: Yeah. One of the issues about
8 this, the reason it was tabled for the last report was
9 the Air Resources Board was conducting a study to
10 evaluate individual cut points, it was being done with
11 ARB and BAR, and their feeling was that they could
12 accomplish the same thing if they were to customize the
13 cut points for each year, make a model of vehicle as
14 opposed to the rather broad spectrum they use right
15 now, which is the emission standards category, to
16 further customize that and they felt they could get the
17 same reduction.

18 CHAIR WEISSER: And where do we stand in
19 terms of that study?

20 MR. CARLISLE: That, I'm not sure. Last I
21 heard, they were still working on it.

22 MS. MORROW: Sylvia Morrow, California Air
23 Resources Board. Right now the repair cut point White
24 Paper is still in a draft form and has not gone all the
25 way through our upper management, but we do have a

1 commitment to post those on our website when they are
2 finished.

3 CHAIR WEISSER: To post what on the website?

4 MS. MORROW: The analyses.

5 CHAIR WEISSER: And do you know if the policy
6 perspective; i.e., that approach acting as a substitute
7 for just higher across-the-board pass points after
8 failure, is that going to be addressed in this paper?

9 MS. MORROW: Yes, the policy from the
10 consumer's perspective and also the repair and testing
11 industry's perspective.

12 CHAIR WEISSER: And is this report being done
13 in a collaboration with BAR or are you doing this on
14 your own?

15 MS. MORROW: We did the initial work with
16 BAR, and the cut point White Paper was required because
17 of the South Coast SIP in which they have a list of
18 things that we committed to evaluate, and this was one
19 of the ones that we committed to evaluate.

20 CHAIR WEISSER: Dennis, you have a question?

21 MEMBER DECOTA: As I understand the issue,
22 and Mr. Pearman and I have discussed it briefly, is, if
23 you raise the cut point on a given vehicle to make it
24 more stringent in order to get a longer lasting repair
25 effectiveness and don't do it to every vehicle of that

1 type, number one, I think you'd have a problem with
2 consumers.

3 MS. MORROW: Well, right now, as you know,
4 the cut points are divided into emission standard
5 categories and those categories are driven by the
6 dirtiest vehicle in that category, and so what we're
7 actually looking at is, as Rocky had said, is making
8 more categories. I believe currently there are 25
9 emission standard categories, and so this would make
10 additional categories.

11 MEMBER DECOTA: How would we in the real
12 world communicate that information on to the automotive
13 repair technician as to that cut rate or – there can be
14 a car that has a fouled spark plug and can be repaired
15 for \$5. If you replace the spark plug it'll pass smog,
16 but it won't last because it's going to foul again,
17 okay? How do you plan to handle that situation in the
18 consumer reality versus shop? Right now the shop would
19 be basically creating itself wide open for a punitive
20 action if it oversells its repairs.

21 MS. MORROW: Well, like I said, we're looking
22 at the repair cut points and we will be coming out with
23 a recommendation. If those were to be implemented, the
24 technician would be able to see on the vehicle
25 inspection report what those numbers would be, just as

1 it is currently when a vehicle fails a Smog Check
2 inspection it tells you what the standards that it has
3 to meet are, so the technician is well aware of how
4 much he needs to clean the vehicle up.

5 CHAIR WEISSER: Please, Mr. Williams.

6 MEMBER WILLIAMS: I'm wondering if we're
7 confusing ourselves here. I think the study you're
8 imagining or your proposal would be to have instead of
9 25 different standards, make it 40, something like
10 that, and they apply throughout the test [skip] rather
11 than another system which says at number 25, if you
12 fail you've got to meet more stringent standards.

13 MS. MORROW: Exactly, (inaudible).

14 CHAIR WEISSER: I think she alluded to that.
15 It's quite a different, to me a completely different
16 approach. Well, good luck Dennis and Bob. I think you
17 have an interesting job here from both a technical
18 standpoint and kind of a political and policy
19 standpoint.

20 MR. AMLIN: David Amlin, Bureau of Automotive
21 Repair. Just to add maybe a little bit more
22 information on this. Essentially there is an analysis
23 and there will be a report that looks at how to [skip]
24 cut points (inaudible) for initial cut points. So
25 that's really - we have a report that just really looks

1 at what areas we can go in and tighten the cut points,
2 and we did that by getting a much more refined look at
3 the vehicles and looking at which ones we could set
4 more stringent cut points and correctly fail broken
5 cars and correctly pass passing cars.

6 CHAIR WEISSER: I guess I'm wondering, and I
7 throw this out to the subcommittee members, whether you
8 want to wait until they finish their work before you
9 guys start spending gobs of your time on this issue,
10 and benefit from their work. What do you guys think?

11 MEMBER DECOTA: My attorney will answer.

12 MEMBER PEARMAN: (Inaudible) the latest
13 report and also get some feedback as to when they
14 finish their study. Just so I understand, so the
15 thinking under this new scenario is that if you have
16 more exacting emission standard categories, then you
17 would expect that the repairs would last as long now as
18 the repaired cars that failed initially or in the
19 future that you could (inaudible) that discrepancy if
20 you do this. Is that the idea (inaudible) ignoring
21 that impact altogether?

22 MR. AMLIN: My own explanation is that a lot
23 of the cars that do fail don't end up getting repaired,
24 or if they are repaired, those repairs to last, and I
25 think the idea is to go ahead and have cut points

1 stringent enough where it's hard to go ahead and get
2 the car through just by preconditioning, for example,
3 or doing some minor temporary repair and trying to
4 force a more complete failure repair, that's really the
5 objective and there's really just a couple of ways to
6 go about that.

7 One, again, first we've got to [skip] how
8 could we have more stringent cut points. That's the
9 report. And then there's philosophy and political and
10 industry effects on the second part, and that's on one
11 hand, it's nice if you don't increase the number of
12 people that fail, and so you have more stringent after
13 repair cut points and that's just to go ahead and say
14 we're going to focus on the ones that are repaired and
15 we're going to try to make sure that they get fixed.
16 The downside is this is a very complicated (inaudible)
17 feel like a double standard, and so it's challenging to
18 go ahead and administer.

19 And the other thing is, maybe we'll
20 (inaudible) by just having more stringent cut points
21 and it might be so much simpler to implement by just
22 doing that in the first place, it might just be more
23 practical. And in reality there's a big difference too
24 in the one I think would require legislation
25 (inaudible) having more vehicle specific cut points is

1 within our mission legislation and so would only
2 require regulations for more cut points.

3 And so I think that's really the basic issue,
4 and the thing that probably would come out of this
5 Committee that might be evaluated is to get the
6 industry input, because really that's part of what
7 we're facing is how to deal with the motorists if you
8 just have stringent cut points up front and you fail
9 them versus, gosh, you failed this, you're going to
10 have your car fixed all the way because you have to do
11 this more stringent standard, and I think that's really
12 the thing that you could provide is the feedback from
13 the industry on that. That's at least that has some
14 representation here.

15 CHAIR WEISSER: I think Mr. Peters might get
16 angry.

17 Mr. Pearman.

18 MEMBER PEARMAN: One thing that Dennis and I
19 commented on, at least in my perspective, is how the
20 program in general seems to emphasize often on a
21 negative, failure rates and penalties and requirements.
22 In the study are we looking at anything like incentives
23 for either the station owners or consumers to want to
24 do more stringent repairs (inaudible)?

25 MR. AMLIN: (Inaudible) how do we tighten cut

1 points, that's really the paper, and that's the thing
2 that we did with ARB. The White Paper will try and
3 address the policy issues and then in general,
4 Mr. Motoriing Public clamoring to go ahead and spend
5 more on repairs and it's the repair industry clamoring
6 to go ahead and have this as a tool. I think we heard
7 some of the testimony some would look forward to it as
8 a reason to go ahead and tell the motorist, yeah, you
9 really do need to get all these repairs done. Others
10 will say my customer's going to be unhappy and I'll
11 have to deal with an unhappy customer, and so we kind
12 of understand all that.

13 CHAIR WEISSER: David, back to the one
14 portion of Robert's question. I remember last year
15 hearing from both ARB and I think the South Coast
16 District that they were trying to evaluate [skip] and I
17 think that's the incentive style consideration that
18 you're raising, Robert, in contrast to, as you
19 characterize, this penalty filled program, and perhaps
20 do you know or does a representative from ARB know the
21 status of any of those aspects of the program? We
22 don't want to get too far afield from this issue, but I
23 think it's directly related.

24 MS. MORROW: Sylvia Morrow with the
25 California Air Resources Board. Again, our (inaudible)

1 adopted in 2003. We did (inaudible) parts replacement
2 program and it is on the web. I don't exactly know if
3 it is on schedule or what the schedule is, but I can
4 get back to you with that information.

5 CHAIR WEISSER: Thank you, that would be
6 great.

7 Okay, let's hear some comments from the
8 public, if we could. We'll start in the front and work
9 backwards. Len.

10 MR. TRIMLETT: Len Trimlett, smogrfg. When I
11 hear this discussion I'm reminded of that little man,
12 your problem is obvious. Why I say that, this whole
13 discussion centers around durability of repairs. You
14 say, okay, I'm going to meet this standard, standard A.
15 Okay. Now, the car fails. All of a sudden you've got
16 to repair it, you've got to throw a bigger handle on it
17 and tighten down that standard.

18 The problem that nobody in this Committee or
19 BAR or CARB are trying to answer is, what makes that
20 vehicle last for only a day? What is the failure rate
21 of the equipment or of the emission system that causes
22 it to fail after just one day? If you answer that and
23 you solve that problem, the issue of tighter standards
24 will go away. State law has a limit on how tight you
25 can make those standards, but you're not addressing

1 that issue, you're addressing – the question that I
2 want to see is, what is the (inaudible) that causes it
3 not to last for a day? Identify that and you'll solve
4 your problem.

5 Dennis, maybe you have some thoughts.

6 MEMBER DECOTA: My thought and what you just
7 said is what makes the car pass for a day, not what
8 makes it fail for a day. What makes the car pass for a
9 day?

10 MEMBER LAMARE: And then fail.

11 MEMBER DECOTA: And then fail. You know –

12 MR. TRIMLETT: That's exactly what I would
13 like to hear. The answer to that question, whichever
14 way you put it in terms of (inaudible), I don't care,
15 but answer the question what makes the car fail or pass
16 for just a day and then fail the next day.

17 MEMBER DECOTA: Right, that's part of what
18 the Committee is trying to ascertain.

19 MR. TRIMLETT: And I would love to hear the
20 answer to that. That would solve a lot. Thank you.

21 MEMBER DECOTA: Thank you.

22 Charlie, you're next.

23 MR. PETERS: Hello, Mr. Chairman and
24 Committee. My name is Charlie Peters, Clean Air
25 Performance Professionals, here to represent motorists.

1 1991 or '92 Snap-On wrote a letter to the
2 Bureau of Automotive Repair and to CARB, et cetera,
3 suggesting car specific cut points, and I believe that
4 specifically is what he's talking about, setting a fair
5 standard for the car. That's been a continuous part of
6 our support mechanism for well over a decade. I think
7 those comments are appropriate things to consider for
8 the Committee.

9 The issue of where do we set the cut points,
10 where do we fix this car to get it solved, I believe if
11 you actually find out if what's broken is in fact
12 getting fixed rather than the car being manipulated to
13 pass the test. Cars that pass the tailpipe does not
14 necessarily pass. Maybe it's fixed to pass the test
15 for the day or the week or whatever the case may be,
16 but [skip] may not be addressing what's broken [skip].

17 My perception is the key to the solution to
18 this problem is car specific cut points and finding out
19 if what's broken gets fixed, which is the tool for you
20 to determine what the program is doing and measure the
21 improvements if you would go out and audit and find out
22 whether or not the car that's broken is getting fixed.
23 If what is broken specifically is getting repaired,
24 we'll solve this whole debate and make me a very happy
25 person and I wouldn't have to come up to these meetings

1 anymore and that would be a joy.

2 MEMBER DECOTA: Thank you, Charlie.

3 Yes, sir? Not you.

4 MR. NOBRIGA: Larry Nobriga, I'm representing
5 Automotive Services Council of California. I also kind
6 of represent myself seeing as I have a test-and-repair
7 station.

8 When you're talking about improving station
9 performance, from my standpoint, one big improvement if
10 you want to lower emissions is let's get some
11 enforcement so the test-and-repair industry is the one
12 that is allowed to repair vehicles and diagnose them.
13 There are a lot of shops that don't have the equipment,
14 they cannot qualify their repairs.

15 By the same token, we see a lot of muffler
16 shops slapping a cat on. That is possibly a temporary
17 repair. We've got to prove that it's in fuel control
18 in order to replace a cat. Muffler shop doesn't have
19 to do that. I think maybe one avenue towards this
20 would be to enforce the rules that say emission
21 failures have to be repaired at a test-and-repair
22 facility.

23 MEMBER DECOTA: Thank you.

24 MEMBER WILLIAMS: If I understand you
25 correctly, we can see from the data that I have that a

1 car appears at a test-only, fails, and then in some
2 later period is back at a test-only and passes, but
3 there's no repair record.

4 MR. NOBRIGA: There's no repair record, yeah.
5 That's the type thing we're talking about exactly.

6 MEMBER DECOTA: Chris?

7 MR. ERVINE: Chris Ervine with STARS.
8 Lowering the cut points for an after repairs test is
9 really bad.

10 CHAIR WEISSER: Thank you.

11 MR. ERVINE: Number one, the biggest problem
12 that we have here is that a consumer brings his car in,
13 you do some repairs on it, it now passes where it was
14 tested before, but it doesn't pass on a lower cut
15 point. The dilemma we have here is now we are crooks.

16 And the other thing is that the emission
17 reduction to lower it just that minute amount to bring
18 it down below the new cut point is going to be
19 astronomical. This is where the cost per ton for
20 repairs of smog is going to go through the roof. So
21 these type of repairs economically are not the best.

22 As a for instance, the State of California
23 with their CAP program is exactly like a consumer.
24 They want the car to pass, and once it passes they
25 don't want to do anything else to it.

1 I'm a CAP station, and we get a car, we do
2 repairs to it. We can improve the repairs, we know
3 what it's going to take to do the repair and bring
4 those emissions even lower, and CAP says nope, it's
5 going to pass, it passes, stop right there. So the
6 State of California is not helping the matter any
7 either, they're just like a regular consumer.

8 I think that's about it.

9 CHAIR WEISSER: Thank you very much. It
10 seems to me that is a very interesting potential
11 opportunity to test data on, you know, that theory
12 where under the CAP program the state might be able to
13 provide additional monies to achieve more lasting
14 repairs that would be shown to be – could be shown to
15 be cost-effective in terms of (inaudible).

16 Is there anyone else?

17 MR. ARMSTRONG: Yes, my name is Larry
18 Armstrong. Mr. Peters got up there and stole a little
19 bit of my fire because I was remembering the copy of
20 the Valvco report that I had and that I got it because
21 the former Committee had it, and if that was around
22 1996 I was just kind of getting a little confusing and
23 I was thinking that with the speed that the Committee's
24 operated on this stuff, it's about the year 2014 we
25 should be bringing this around again to talk about

1 vehicles specific cut points.

2 CHAIR WEISSER: (Inaudible)

3 MR. ARMSTRONG: Valvco that I believe ended
4 up being a subsidiary of Snap-On, and –

5 CHAIR WEISSER: This isn't Valvco the steroid
6 company?

7 MEMBER DECOTA: No.

8 MR. ARMSTRONG: Car steroids.

9 CHAIR WEISSER: Car steroids.

10 MR. ARMSTRONG: Car steroids. They provided
11 the I&M Review Committee. Probably I was thinking it
12 was – I'm trying to picture the letter that it was
13 about. I think it was about 1996 that they proposed
14 and had done some in-house studies on doing vehicle
15 specific cut points, and it's now 2005, so we really
16 taking after it here.

17 I will tell you that I probably would have
18 been at one point in time in favor of dual cut points,
19 a repair cut point and a fail cut point, and the more
20 that I thought about it and talked about it, the less
21 enthused I am for other reasons, because what that does
22 it provides a lot of opportunity to work the customer
23 up on the front end to get the car so that it will pass
24 the first test, which goes against the grain of another
25 thing that I was also opposed in the beginning is test

1 them like you get them. If everybody was back to
2 testing them like you get them, we might actually have
3 some status that we could use, but as I recall,
4 Mr. Keller in the old days came in with a solution when
5 we lined up about a eight-week backlog at the referee.
6 There's's the test-and-repair people who are doing
7 their job and totally freaked out the referee system
8 and they came up with the concept of being able to
9 pre-inspect cars, which was absolutely absurd and
10 remains that way and causes the program to not work as
11 well as it could. And so, I think if it did come
12 around to actually talking about a dual cut point
13 system that I would be opposed to it and I originally
14 thought I might like it. Thank you.

15 CHAIR WEISSER: Thank you. Any other
16 comments from the audience or from the Committee?

17 - ooo -

18 Okay, we'll move on to the next item, which
19 is the public exploration of the placement, the
20 organizational placement of the Smog Check Program, and
21 I think in the future you should just write
22 'organizational placement of the Smog Check Program.'

23 I can tell you that between our last meeting
24 and today I've done extraordinarily little work on
25 this, but interestingly have gotten several phone calls

1 from people who have a biding interest in the Smog
2 Check Program. John and I had had a brief conversation
3 or two. I still want to look at a thorough exploration
4 of aligning the policy objectives of the program up
5 properly, and then dealing with aligning the work, the
6 actual duties, is challenging.

7 I think one of the last things, John, that
8 I'm interested in doing is having repair shops facing
9 regulation by two state agencies. I think that's a
10 recipe for problems, so my mind is open
11 organizationally on how to achieve a policy alignment
12 and do it – and by policy alignment I mean, I guess I'm
13 coming from the place that the only reason for the Smog
14 Check Program is for air quality. It's the only reason
15 that there's a Smog Check Program, that I know of. If
16 we had a Smog Check Program that was aligned with a
17 safety program, that would be a different fashion. By
18 the way, I personally would be in favor of that sort of
19 thing. But right now the Smog Check Program is an air
20 quality program, and for that reason last month I said
21 I wondered whether or not the program would be from a
22 policy perspective better off placed in the Air
23 Resources Board rather than the Department of Consumer
24 Affairs and BAR.

25 The question remains, how could you achieve

1 that policy realignment but yet do it in a way
2 organizationally where you're getting rational
3 utilization of state employees and you're not causing
4 undue heartburn on the part of the operations people,
5 the ownerships of Smog Check stations, and that's
6 something we need to explore.

7 That's about all I guess I'm going to say
8 now. I'm hoping in the next month that John and I will
9 be able to come up with a work plan and perhaps a memo
10 describing, outlining some of the issues at stake with
11 a preliminary sort of pro/con analysis. I sure would
12 be open to hearing both today and follow-up written
13 comments any suggestions that the members of the public
14 or the agencies have in this regard. It's not an easy
15 issue, but one that I think needs to be thoroughly,
16 publicly discussed.

17 With that, any comments, John?

18 MEMBER HISSERICH: In light of that, we have
19 to be cognizant of (inaudible) personnel issue
20 represented by the folks in an enforcement role at BAR,
21 where it would be appropriate to relocate them, if it
22 would be the most effective agency for them in the ARB
23 to carry out an enforcement role, et cetera.

24 And then of course the sheer income from the
25 Smog Check Program provides, I guess, a major share of

1 the income up and down the state and for BAR, so a
2 movement there might have a (inaudible) effect on BAR
3 and its other activities, and so (inaudible) missed the
4 opportunities for them to carry out their other
5 activities by (inaudible) the agency that would be a
6 problem.

7 Conversely, I think from a policy point of
8 view, as the chairman stated, the underlying rationale
9 and the purpose of the whole operation is air quality,
10 and when you see conflicting or at least policy issues
11 are not as clearly defined in that regard from agency
12 to agency it causes consternation and I think led to
13 consideration of the idea that at least (inaudible)
14 along with possibly some of the other parts of it need
15 to be discussed, and I'm sure we'll have the
16 opportunity to do that.

17 CHAIR WEISSER: Okay. Comments from anybody
18 in the audience? Mr. Peters.

19 MR. PETERS: I'm Charlie Peters, Clean Air
20 Performance Professionals, here representing the
21 interests of motorists.

22 The motorists are not getting a fair shake,
23 not getting what they deserve, and so considerations to
24 how to improve that are appropriate, but I still have,
25 as I said at the previous meeting (inaudible)

1 appropriate support from the Bureau of Automotive
2 Repair to take actions [skip].

3 If we're going to move it someplace else, why
4 are we moving it there? Are we moving it there to
5 create tradeable credits or what are we doing here?
6 More than likely there's some real answers that
7 somebody wants to make some money, because that seems
8 to be what this game is primarily about. The fact that
9 John indicated that it's about the air, that's what it
10 should be about, but I certainly have strong questions
11 as to whether or not that might be true.

12 Many states have the highway patrol manage
13 the program, do the enforcement on the street. There
14 are initially our program was the highway patrol,
15 (inaudible) pretty high power and they are not likely
16 to support issues that don't take the thing where it
17 needs to go, but I think we need to provide an
18 appropriate support for the Bureau of Automotive Repair
19 to beat (inaudible) out, which I have not seen.

20 I've been coming to the Capitol and up here
21 testifying for a long time. Everybody tells me go
22 home, take care of your business, Charlie. Well, my
23 business is gone. I think it's appropriate just to do
24 something here that makes some sense and until such
25 time as we provide that support to the Bureau of

1 Automotive Repair, I do not believe that it's
2 appropriate to consider moving the program. Thank you.

3 CHAIR WEISSER: Thank you, Mr. Peters.
4 Mr. Armstrong.

5 MR. ARMSTRONG: Yes, my name again is Larry
6 Armstrong. I guess I just have my opinion on point in
7 the letter that I submitted to the Committee. I'm
8 checking on it. Mr. Carlisle said that the original
9 didn't get here, and I'm checking to try to find out
10 what might have happened there.

11 CHAIR WEISSER: We did get copies of it,
12 Mr. Armstrong.

13 MR. ARMSTRONG: I think you got a copy off
14 the Internet, which I'm glad you got it but it came
15 around Hogan's Barn to get to you.

16 My concerns probably date back to May of
17 1992. It was the thing that got me involved in this
18 issue and going on this issue, and that was when the
19 regulators held five meetings around the state. I
20 ended up, I got in my car and I drove to San Diego and
21 ended up going to the last four. It was then that I
22 got the impression that the Air Resources Board was
23 attempting to sabotage the Smog Check Program and would
24 use about whatever means was at hand in order to be
25 able to accomplish that, including something that to me

1 is abominable, and that is somebody in my government
2 lying to me, and I have been suspicious ever since.

3 One time I found out that the Air Resources
4 Board had smog machines that they couldn't get them to
5 work, and so I offered to try to help. I thought maybe
6 I knew somebody at the Bureau of Automotive Repair that
7 I might be able to get some help, and I wasn't able to
8 get some help and the answer was that those people use
9 the machines to certify vehicles that they're not
10 supposed to be certifying any vehicles, and so I went
11 away again shaking my head.

12 I have been fairly adamant all the way
13 through here that the statutes call for the Bureau of
14 Automotive Repair to operate the Smog Check Program.
15 Unless any of you think those people are somehow my
16 friends, they've prosecuted me on five different
17 occasions, so I think I have spent more time on
18 probation than anybody in the State of California in an
19 automotive repair business, so it's not like I've got
20 some kind of a buddy system going. But the last place
21 in the whole wide world [skip].

22 CHAIR WEISSER: - because you don't want an
23 air quality program to be the air board because they're
24 not an operational agency?

25 MR. ARMSTRONG: I don't want a money program

1 to reside in the Air Resources Board. If this was
2 about the air, there would be no dispute. Anywhere
3 along the line there would be no dispute. It has
4 absolutely never been about the air with the exception,
5 I think, of the poor little people that are out there
6 naively thinking that they're doing this job. I
7 finally exploded myself and gave up. I kept asking my
8 government to get responsible and get with the program
9 and make it be about the air, and I don't believe it
10 has ever been about the air. I've seen legislators
11 laugh when asked to become responsible, and all the way
12 down the line. We have some serious problems that you
13 people could go to work on, but I seriously doubt that
14 that's going to happen.

15 CHAIR WEISSER: Thank you, Mr. Armstrong.

16 Further comments from the public?

17 Jude?

18 MEMBER LAMARE: Taking note that this program
19 has been kind of a shared responsibility by ARB and BAR
20 with BAR carrying out the Smog Check Program,
21 collecting the revenues and overseeing the Smog Check
22 industry where the Air Resources Board has been
23 responsible for making sure that the program and
24 whether the air quality benefits that are promised to
25 the federal government (inaudible) cut down air

1 pollution and protect Californians from the health
2 effects of air pollution that violates federal public
3 health standards.

4 I'm concerned that we should look at what is
5 the role of the Air Resources Board in the Smog Check
6 Program. One way of looking at it is the proposal to
7 move the Smog Check Program to the Air Resources Board
8 because it's an air quality program. We've been
9 hearing some of the reasons why that will not be wise,
10 but I think we still need to ask the question, how does
11 the California Air Resources Board engage the Smog
12 Check Program?

13 Now, when we have a meeting we often see
14 someone here that works for the Air Resources Board,
15 but the Board itself, as far as I know, does not and in
16 my memory is not reviewing the effectiveness of the
17 Smog Check Program. I mean, maybe somebody can correct
18 me on that, but I do not believe that the Air Resources
19 Board, which is the responsible party for our air
20 quality plans and how they're conducted and how
21 effective they are, is completely out of the loop when
22 it comes to this program.

23 Instead, we have this group here, if I'm not
24 mistaken, that's present and the only person here who
25 has any kind of professional knowledge about air

1 quality. This is supposed to be an air pollution
2 control officer on this advisory committee to give
3 input, but I think if this is an air quality program
4 the Air Resources Board should have some oversight on
5 how effective it is in getting the air pollution
6 reduced that it is intended to reduce. So I guess I'm
7 saying that the question should be broadly analyzed to
8 investigate what is its proper role there (inaudible)
9 part of statutory change.

10 CHAIR WEISSER: I appreciate that input and
11 advice, and in fact think we really need to take a look
12 at the roles and the relationships between the
13 organizations, and that might be a way of better
14 aligning authority and responsibility than actually
15 moving organizations, so I think that should be, John,
16 something you and I should try to look into when we
17 start getting our hands dirty.

18 Chris.

19 MR. ERVINE: Needs to be monitored a lot more
20 closely, have a lot more industry input than it has had
21 in the last ten, fifteen years. Bureau of Automotive
22 Repair has blindly put their head down and gone ahead
23 and done whatever they darn well please regardless of
24 what the input was from industry, and quite frankly,
25 industry is getting fed up with it. We have talked to

1 them over and over again about things that need to be
2 done and things that should be done a certain way, and
3 regardless of what the input it, they've gone ahead and
4 done what they wanted. I would like to see whatever
5 the program is with industry representatives sitting on
6 the Board for their input and BAR or ARB accountable
7 for what they're doing.

8 CHAIR WEISSER: Thank you. I know many folks
9 in the industry have pressed forward to have some sort
10 of a board or hearing panel or some approach to provide
11 direct oversight, at least over a portion of the
12 program, most notably some sort of appeals function, I
13 think I remember coming up last year, and I guess that
14 probably should fall within when we look at and
15 consider our analysis.

16 I would caution you, Chris, to remember that
17 the Bureau of Automotive Repair is part of the
18 Department of Consumer Affairs and, you know, the word
19 'consumer' I think is important, and if we start
20 looking (inaudible) for some sort of industry dominated
21 board, I think you're barking up the wrong tree, I
22 don't think that's going to happen.

23 MR. ERVINE: Well, I tend to agree with you
24 and I think that a balanced board would be something
25 that industry would welcome as well.

1 CHAIR WEISSER: I would hope so.

2 MR. ERVINE: But what has to happen is the
3 State of California has to realize that they are slowly
4 but surely driving the test-and-repair industry out of
5 business, and when that happens there will be nowhere
6 that you can get your automobile repaired in the State
7 of California, and those places that are still in
8 business that you can get your vehicle repaired in the
9 State of California, it's going to cost you your left
10 arm and the cost of repairs are going to go through the
11 roof. Something needs to be done now. Not a year from
12 now, not two years from now. People are going out of
13 business because of what the State of California has
14 done to them.

15 CHAIR WEISSER: Okay. Well, this Committee
16 will exert every power it has to rectify the situation.
17 Our power is limited to listening to what you have to
18 say, talking among ourselves, doing some research,
19 putting out recommendations. The type of things you're
20 talking about have to go to the Legislature and the
21 Governor. That's just some free advice.

22 MR. ERVINE: If this Committee would make
23 that recommendation, I'm sure that we could get
24 industry to back it up a hundred percent.

25 CHAIR WEISSER: The only thing that I'll

1 commit to at this point in time is John and I putting
2 our heads together, openness to willing to talk with
3 everyone and anyone on this subject; the public,
4 test-and-repair, test-only, the agencies. I want to
5 sit down with Chief Ross and get his thoughts on this.
6 I want to sit down with the ARB and get their thoughts
7 on this.

8 I just think the time has come we need to
9 look at this issue of where does this program best fit.
10 The issue has come up a couple times in the past years,
11 and most recently I've gotten, as I mentioned, calls
12 from the staff on the Governor's California Performance
13 Review team. They asked some questions regarding the
14 program. Nothing I saw in the report seemed to
15 indicate that it went anywhere. We'll see. Thank you
16 very much.

17 MR. ERVINE: Thank you.

18 CHAIR WEISSER: Any other comments from the
19 audience on this issue at this time? Remember, if you
20 have any that come up after the meeting, write me an
21 email, write Rocky an email, any thoughts on any of
22 these issues.

23 - ooo -

24 The last issue [skip] last month's meeting
25 indicating that in the face of the likelihood of this

1 Committee being blown up as part of the Governor's
2 reorg proposal submitted to the Little Hoover
3 Commission, wouldn't it be of value for us to leave in
4 our wake a model that might be followed by the
5 Department or whoever might follow us in terms of
6 program evaluation, is there some sort of standardized
7 methodology. So this Committee is comprised of Judith
8 Lamare and Dennis DeCota.

9 I notice, Dennis, your name appears on two
10 other subcommittee forums here, and I don't know
11 whether you're comfortable with the workload you're
12 assuming.

13 Jude, your name is on one other. I kind of
14 arbitrarily said at the last meeting since it was your
15 idea that you're on the committee, and I think I'd like
16 to get your sense of where this should go and how we
17 should approach dealing with it. Jude?

18 MEMBER LAMARE: Mr. Chairman, as I recall, I
19 believe that I was concerned about three things. One,
20 continued onroad roadside inspection program on an
21 ongoing level, not a special study level. Two, what
22 one of our audience members has suggested many times,
23 that there be an audit, a program audit that we had
24 heard described by one of the ARB folks that spoke to
25 us in El Monte whose name is escaping me at the moment,

1 Mark Karloff?

2 CHAIR WEISSER: Um-hmm.

3 MEMBER LAMARE: Where Mark described the
4 program they have in El Monte where they take cars
5 through practice smog checks. They pose as real –

6 MR. CARLISLE: Defects. They install
7 defects.

8 MEMBER LAMARE: – specific cars with specific
9 defects through Smog Check and see how they are managed
10 by the industry, and it's a kind of (inaudible) of how
11 the industry handles certain types of Smog Check
12 problems. When Mark was describing that, I had the
13 distinct impression that it was an ongoing program, but
14 I later asked someone about that and they said, oh, we
15 haven't done that for several years.

16 I think there is an issue with the ARB
17 research program on Smog Check that it ebbs and flows
18 and (inaudible) is not maintained in a predictable way,
19 and so those are two elements that I would be concerned
20 that we make a recommendation to have ongoing minimum
21 program level in every budget year, an ongoing coffer
22 that doesn't overflow.

23 The third element we talked about here is
24 that the state does not carry out any kind of consumer
25 market survey or information gathering from consumers

1 about their experience with the program. What we've
2 tried to do this year was show how that might work, do
3 a small example of that, test it out, do a model, and
4 it's a way of checking directly with consumers so that
5 the state has some direct feedback from those who are
6 going through the program on those kinds of issues that
7 we talk about here.

8 Those are the three, as I recall, it seemed
9 to me those were the three things. Maybe somebody else
10 has a better recollection, maybe I should read the
11 transcript, but those were my concerns, that if we were
12 to be exploded, that we leave and make a recommendation
13 for an ongoing report by those responsible agencies
14 using real research based on vehicles that are out
15 there.

16 CHAIR WEISSER: I guess I do remember those
17 three items, Jude, but I thought that this effort might
18 also talk about the sorts of data for evaluating what
19 are the air quality benefits, what are the program
20 benefits that an evaluation should address.

21 MEMBER LAMARE: I think the research programs
22 are just (inaudible) a way to get the data.

23 CHAIR WEISSER: Okay. I think that it would
24 be useful to whatever successors there are to us or if
25 we stay around ourselves if we could come up with some

1 sort of a listing of what should a program evaluation
2 encompass, what are the questions that you'd ask in a
3 program evaluation.

4 MEMBER DECOTA: I agree with you,
5 Mr. Chairman, and I think that was part of the
6 discussion last time. I know that's what sparked my
7 interest in doing it. I think that over the years of
8 working with the IMRC and the previous group before it,
9 the one thing that I felt was so valuable about IMRC
10 was the different areas from which the representatives
11 came from in society to make up the evaluation, and
12 that the old committee was basically made up of air
13 boards and lacked any other input really as to the
14 program effectiveness and how to properly evaluate the
15 program, and I thought that if we are going to be blown
16 up, it would be proper directing at least to the
17 Administration recommendations on how to properly
18 evaluate and what the mix could look like in order to
19 get as fair and unbiased as possible evaluation of the
20 program.

21 CHAIR WEISSER: Okay. Any other comments?
22 Comments from the audience on this, and then I'd like
23 to return to is this an issue we need to proceed on or
24 are we going to either or both of you want to
25 reconsider.

1 MEMBER DECOTA: I'm willing if Jude's
2 willing.

3 MEMBER LAMARE: (Inaudible)

4 CHAIR WEISSER: Members of the audience?
5 Mr. Peters.

6 MR. PETERS: I'm Charlie Peters, Clean Air
7 Performance Professionals, here for the purpose and the
8 interests of motorists.

9 Jude said a lot of things that made a lot of
10 sense, and looking at a tailpipe measurement versus
11 looking to see if what was broken got fixed, there is
12 completely different outcome. When you have a
13 test-only system, the repair person's job is to make it
14 pass the test. When you have a test-and-repair
15 situation, the repair guy's job is to fix what's
16 broken. That's the reason why when you look at [skip]
17 running in Arizona versus running in California where
18 the car failed, then passed and you got an off cycle
19 test, California's cars pass twice as often as
20 Arizona's cars.

21 That's the reason why when you look at tamper
22 studies done by the University of Colorado show a 25
23 percent tamper rate in Phoenix, 11 percent tamper rate
24 in California.

25 But all of the data that we present here and

1 talked about indicates that we were completely inept
2 and don't know what we're talking about and don't know
3 how to fix this when in fact we do, so I had a lengthy
4 discussion with the EPA and brought it to you when we
5 went to Washington. Matter of fact, before we went to
6 Washington the Bureau of Automotive Repair and I had a
7 two-hour conversation at the Society of Automotive
8 Engineers in Southern California. They talked with me
9 probably a dozen times during the two-day hearing
10 about, oh, IM240 is the way to evaluate this test, and
11 I said no, you got to look at the factory
12 configuration. Manufacturers spend hundreds of
13 millions of dollars making an engine family. If you
14 completely disregard that is all you have is the
15 tailpipe emissions test under a constrained situation
16 and it doesn't fix what's broken. So unless you take
17 into account the huge amounts of money the [skip] that
18 serves the public, the whole thing is a joke.

19 So what she had to say is right on, it should
20 be incorporated federal test procedures, diagnosis as
21 to what's broken, diagnosis to see what the
22 manufacturer put on there is there or what's there is
23 approved, and we could have appropriate incentives in
24 the marketplace to actually do the job to fix what's
25 broken, we can have the very best program in the world

1 and we will lead the world in this arena again, and
2 unless we do that, I think it's appropriate to stop the
3 whole thing.

4 CHAIR WEISSER: Thank you. Mr. Armstrong.

5 MR. ARMSTRONG: Yes, my name again is Larry
6 Armstrong. I guess maybe I've been hanging around too
7 long, because my memory serves me that Bureau of
8 Automotive Repair had an undercover car program that
9 maybe I didn't totally agree with it but it had
10 tremendous effect on the marketplace in bringing the
11 smog tests into more consistency. That was stopped.
12 It went from an 80 percent failure right down to the
13 point to where it was 84 or 86 percent correct, and the
14 reason it was stopped that we were told is they didn't
15 think it could get any better, and to my way of
16 thinking, if you can drive something from 80 percent
17 wrong down to 84 to 86 percent right, keep beating the
18 drum, don't ever stop.

19 The Bureau of Automotive Repair came out with
20 a program that they called PICA, Partners In Clean Air.
21 Their people would go out with a rigged car. If the
22 shop did not properly analyze it, they would give the
23 guy a chance to rethink his thoughts and then they
24 would go get out of their car that repair part and
25 offer to let the shop install the part on the car and

1 see if it would then pass. The effect was tremendous
2 because somebody figured out that there was somebody
3 out there that cared and was actually looking.

4 A fellow that I'm associated with you heard
5 from a little bit earlier, he's got a little motto
6 that's what gets watched gets done, and so every time
7 we have had an adequate program of watching that would
8 make the program be better, somebody went around the
9 back door and stopped it. I've never been able to get
10 anybody to jump up and say that was me, I stopped it,
11 but somebody did, and this program has been sabotaged
12 more times than you could ever imagine.

13 It's a simple deal. Cause everybody to do a
14 consistent Smog Check, cause everybody to want to do
15 proper repairs, and it's just that simple and it is in
16 a program that was probably more effective than the
17 U.S. Military has ever been able to get to, because we
18 were operating on a fleet of 26 to 30 million vehicles
19 and doing a pretty damn good job on a big portion of
20 those vehicles and it could have been a hell of a lot
21 better.

22 CHAIR WEISSER: Thank you. Are there any
23 other comments on this item?

24 - ooo -

25 Now we'll open it up to general public

1 comments or any comments the Committee members might
2 like to make on any issue. Robert.

3 MEMBER PEARMAN: Just to ask of the chair, we
4 talked about something you referred to was our open
5 seat for the Air Quality Management District officer.

6 CHAIR WEISSER: I have nothing further to
7 report. I don't know that this Administration's
8 appointment processes are any different than any other
9 Administration's processes. They always seem to take a
10 long time. (inaudible) on the list, maybe things have
11 changed. I will try to make a call and see if we can't
12 get the position refilled.

13 Any other comments or questions? Open it up
14 to the audience for anything people would like to say,
15 one time through. We'll start from the far right.

16 MR. RICE: Thank you. Bud Rice, Quality
17 Tune-up Shops. I've got three things on my hit parade,
18 I'll run through them real quick.

19 One question is, Charlie Peters said earlier
20 today that he didn't think that there was a mandate for
21 test-only for the cars being moved to test-only. I'd
22 like to say I'm not sure about that but I'd sure like
23 to know whether or not that is an accurate statement or
24 not and why not if there's some fuzziness about that,
25 so that's my first comment.

1 Second one is, 36 percent of the cars are
2 being moved to test-only. Mr. Ward said that and I
3 think the lady from ARB also said that, but it's
4 36 percent of what? That's kind of another fuzzy spot.
5 My understanding is that if this was the testing pool,
6 we've now eliminated this bunch of cars with the
7 30-year exemption. Now we're taking years 5 and 6 out
8 over on this side. So what we're left of the true
9 testing pools are cars from something like 1976 through
10 2000, that's the true testing pool, so is it 36 percent
11 of that? And the answer is no, because they're still
12 including those cars all the way up to 2005 and taking
13 36 percent of that number.

14 So it's not really a perception problem with
15 what the guys like me in the field in the automotive
16 repair field have, it's more a math problem. If you
17 extend it like this and then take 36 percent of those,
18 obviously the number of cars that are going to go to
19 too is going to be higher than what the industry thinks
20 it's going to be, so that's my second comment.

21 Third one is that we have some guys from
22 Speedy, very direct competitor of us, Quality Tune-up
23 Shops. We also had Mr. Ward and he wants to do
24 test-only tests. That's okay. All I'm saying is, we
25 all just want to compete, all right? We all want an

1 opportunity to compete. The customer gets a chance to
2 choose who it is they want to go do business with, and
3 that's all we've ever asked for, ever. Thank you.

4 MEMBER DECOTA: Thank you for your comments.
5 Any questions from the Committee? Next would be Len.

6 MR. TRIMLETT: I think I can answer
7 satisfactorily the question of the the mandate for
8 test-only. The fact is that Section 44010.5 of the
9 Health and Safety Code says very clearly that you can
10 develop the capacity to implement 15 percent to
11 test-only. It does not say that you have to. There is
12 no requirement under 44010.5 to actually implement
13 test-only, it says only you have to have the capacity.

14 And the other question was (inaudible)
15 36 percent. The issue all revolves around the fact
16 that the Health and Safety Code says 15 percent of the
17 fleet goes to test-only, where what we are actually
18 seeing now is 36 percent of all those vehicles from
19 1976 to 2005 going to test-only, 36 percent of that,
20 and when you take into consideration the fact that
21 you're sending – you're calculating the 2005's into it,
22 then you have to say, oh, we're falling short so we've
23 got to send more vehicles to test-only. So I'm saying
24 that there's some very fuzzy math going on with the
25 test-only.

1 The other thing that I wanted to say earlier
2 but it was out of the scope of the discussion is I
3 think that you still have not adequately gone far
4 enough on the subject of smoking vehicles. In
5 particular [skip] they're not smoking enough to be
6 ready for a new engine, but they're burning oil pretty
7 heavily, and it's where they burn oil pretty heavily,
8 that's where you get a big increase in pollution.

9 Now, that vehicle that I'm driving behind may
10 not be due for a Smog Check for another year and a
11 half, they may have just had one and got by the last
12 one okay, but now they're driving along and they're
13 burning enough oil to be polluting quite a bit, okay.

14 What can I do? I go and I call 1-800-
15 (inaudible). What do they say? They send the person a
16 letter that says you've been reported for smog. You
17 need to go and have it repaired, but we can't force you
18 to do anything.

19 So, my answer is you need to consider taking
20 up the things that if that vehicle is reported for a
21 smoking vehicle failure, then (inaudible).

22 MEMBER DECOTA: We hear you loud and clear
23 and we thank you for your comment. Also, you must
24 realize that it is the recommendation of this Committee
25 to the Legislature that that issue be taken a serious

1 consideration of in our recommendations and maybe you
2 can help support those recommendations in writing to
3 elected officials.

4 MR. TRIMLETT: Okay.

5 MEMBER DECOTA: Thank you.

6 MR. TRIMLETT: I would be glad to help in
7 that way. Thank you.

8 CHAIR WEISSER: Thank you, Len.

9 MEMBER HISSERICH: I have a question for
10 Rocky actually, just following up, Mr. Chairman, from
11 the previous question about percentages. I just need a
12 little clarification for myself if in fact it's
13 supposed to be 36 percent of vehicles from 1976 to
14 2005. Is that an accurate statement?

15 MR. CARLISLE: Yes.

16 MEMBER HISSERICH: Okay. And if you take out
17 the 2005 back, I guess, to 2000 that the Legislature
18 has exempted the new cars, is it true that we make up
19 the total number of cars for the intervening years?

20 In other words, let's just make the math
21 simple. If there were 1,000 vehicles between 1976 and
22 2005, and we had to test 36 percent of them, I guess
23 that would be 360 cars would have to be tested. But
24 because we've exempted the 2001 through 2005, let's say
25 that takes off 400 of those cars, which means that the

1 remaining pool is 600 cars. Do we have to make up 360
2 cars out of the 600 or 36 percent?

3 MR. CARLISLE: 360.

4 MEMBER HISSERICH: We'd have to get the 360.
5 So in other words, if the proportional amount out of
6 the available pool of cars is higher than 36 percent,
7 does that —

8 MR. CARLISLE: Right. [skip]

9 MEMBER HISSERICH: So the concern of the
10 test-and-repair industry aside from the air quality
11 issue, but the concern of that industry with regard to
12 the number of vehicles that are pulled out of the
13 available testable pool, if you will, is in fact valid.

14 And then just to back up. If we've gotten
15 the 36 percent instead of the 15 percent now, when was
16 that done?

17 MR. CARLISLE: I don't recall the exact date,
18 but that was a mitigation measure to avoid a lawsuit
19 by, as I recall, the National Resource Defense Council,
20 when the program was not getting emission reductions
21 several years ago.

22 MEMBER HISSERICH: Okay. And that was
23 adopted by the Legislature as a result of that or by
24 the agency?

25 MR. CARLISLE: Agency.

1 MEMBER HISSERICH: Adopted by the agency but
2 not by us as a committee, I don't believe.

3 CHAIR WEISSER: No, the Committee has no
4 authority regarding that.

5 MEMBER HISSERICH: Well, I just wanted to
6 state that for the clarification of all those concerned
7 that that was arrived at not by this board. Now, we
8 are certainly interested and try to stay on top of it
9 and be aware of it, but it's not decisions that we
10 make. So, you know, not that you shouldn't come and
11 let us know your concerns; we just want to make it
12 clear that we don't sit here and say (inaudible)
13 percentage and shift it around and around. Thank you.

14 CHAIR WEISSER: Dennis?

15 MEMBER DECOTA: I'd like to ask this both to
16 the Bureau of Automotive Repair and also the Air
17 Resources Board. The question simply is, as the SIP
18 requires 36 percent of vehicles to be directed, has the
19 State of California – what are the position of both
20 agencies with regards to 36 percent as it relates to
21 the legislation that has recently been passed that is
22 directing many more vehicles?

23 CHAIR WEISSER: You mean that has exempted
24 many more vehicles?

25 MEMBER DECOTA: Right.

1 CHAIR WEISSER: Okay. That's a reasonable
2 question I'm sure either agency -- could either agency
3 respond?

4 MS. MORROW: Sylvia Morrow with the
5 California Air Resources Board. Could you repeat the
6 question again?

7 MEMBER DECOTA: What I'd like to get is, I
8 pay a gentleman some money sometimes to help me think
9 this through, because my lobbyist Mr. Walker is in the
10 room here today. Can you help me formulate the
11 question, Chris, properly?

12 MR. WALKER: The question was --

13 CHAIR WEISSER: Would you move up to a
14 microphone so we can capture this for future trials?

15 MR. WALKER: Your Honor, Chris Walker on
16 behalf of California Service Station Automotive Repair
17 Association. The budget documents that last year which
18 were approved by the Legislature and signed by the
19 Governor made some program alterations, notably of
20 removing fifth and sixth model years from biennial
21 inspections as well as change of ownership for zero to
22 four years and some other modifications. I'm under the
23 assumption that a good chunk of those program elements
24 were included in the existing SIP, and if they were
25 included in the SIP, are we now technically in

1 violation of our agreement with the federal government,
2 and if so, what are we doing as a state to revise the
3 SIP to include and address the changes that were
4 adopted (inaudible)?

5 MS. MORROW: Okay.

6 CHAIR WEISSER: I'm sure that a
7 representative from the State of California would say
8 that we're absolutely not in violation of the SIP.

9 MS. MORROW: Yes, we're not in violation of
10 the SIP. Actually, one of the (inaudible) of the five
11 and six-year-old, even though they've been exempted
12 from the Smog Check Program, the benefits on the
13 standards of the Smog Check Program in comparison to
14 those cleaner vehicles is very -- is a lot smaller, and
15 so we're making up those tonnages in other way since
16 we're getting additional emission reductions
17 (inaudible).

18 CHAIR WEISSER: Other ways such as the
19 additional money for retirement of cars or for improved
20 repairs?

21 MS. MORROW: Yeah. I don't have all the
22 facts in front of me; however, I do know that there was
23 an analysis done and that I do not think that there is
24 a big shortfall at this time.

25 CHAIR WEISSER: Is the State of California

1 going through a revision of the SIP in order to try to
2 do an accounting of these changes and their impact on
3 the SIP?

4 MS. MORROW: We are currently looking at the
5 impact of the changes. I don't know, like I said, if
6 they actually impact the emission reductions associated
7 with the SIP, and so that's -

8 CHAIR WEISSER: And is the State of
9 California looking at the impact of these changes on
10 the industry in terms of the percentage of directed
11 vehicles versus non-directed vehicles?

12 MS. MORROW: Well, that's part of what is
13 currently in law. One of the things is that we direct
14 15 percent of the fleet subject to test-only, and so
15 that actual, even though there was new legislation,
16 that actual language did not change subject to Smog
17 Check, and when you look at what's subject to Smog
18 Check it actually incorporates the entire fleet.

19 CHAIR WEISSER: Is the State of California
20 through the ARB and BAR looking at whether or not the
21 time has come where that needs to be looked at because
22 it's such a different number than it was when
23 originally realized?

24 MS. MORROW: Yes, yes, we are looking into
25 that, and at the same time as we're looking into the

1 test-only and the test-and-repair, we think it all ties
2 together.

3 CHAIR WEISSER: And is there a timeframe when
4 you might be able to or we might be able to hear what
5 the agencies are proposing or considering; are you
6 going to give us a presentation on the study at the
7 time, are you going to allow public input on this, or
8 what's the process here?

9 MS. MORROW: Well, as I stated earlier, when
10 we look at comparing the differences between test-only
11 and test-and-repair, when we develop the analysis
12 proposal we do plan on [skip] to the IMRC.

13 CHAIR WEISSER: And when will this be,
14 Sylvia?

15 MS. MORROW: We're just in the beginning
16 stages of it, so I can't really tell you. Probably
17 sometime, you know, in the summer.

18 CHAIR WEISSER: The summer, of 2005?

19 MS. MORROW: This year.

20 CHAIR WEISSER: Well, that was unfair and
21 unkind, but based upon some experience in terms of the
22 timeliness of the delivery of the former joint BAR/CARB
23 report, I just wanted to get an order of magnitude in
24 terms of the time. So you're talking about sometime
25 this summer we should have some information associated

1 with the impacts of the legislation on the SIP, the
2 impacts of the legislation on the efficacy of the
3 15 percent, nay 36 percent directed vehicle agreement
4 that was made to satisfy the feds, and other issues
5 assorted. And I'm not trying to pin you down, I'm just
6 trying to be as clear as possible. I will try to pin
7 Tom Cackette down on this one.

8 MS. MORROW: I would say on the issue of
9 looking at comparing test-only and test-and-repair,
10 like I said, we are right now in the beginning of that
11 process of looking at contractors, so by the time
12 (inaudible) I would have to say I would not see it
13 until fall, see the proposed (inaudible).

14 CHAIR WEISSER: I asked one question
15 (inaudible). Thank you very much.

16 Chris, you're hovering there like a hawk.

17 MR. WALKER: I'm sorry. Chris Walker again
18 with the California Service Station Automotive Repair
19 Association. What I've heard is, in the SIP we have
20 very specific elements that we've included; for
21 example, 36 percent, fifth and sixth model years, et
22 cetera, but in the end it's a malleable document
23 because what we're trying to get to is across the goal
24 line, yield so much emission reductions per program
25 element, right, or per the entire program. So being

1 wedded to a 36 percent number, although it's included
2 in the SIP, there's not necessarily something that
3 would cause California to be in violation of some
4 agreement with the federal government if in fact we
5 were --

6 CHAIR WEISSER: That may not be true -- I'm
7 sorry to interrupt, Chris -- because I do not know what
8 the specific sidebar agreement signed by the State of
9 California and USEPA provides, so I just don't know if
10 what you're saying is factual. Beats me.

11 MEMBER DECOTA: Can we find that information
12 out?

13 CHAIR WEISSER: Yeah. And we would ask --
14 excuse me?

15 MEMBER LAMARE: Next month.

16 CHAIR WEISSER: Yeah, I think that's
17 something we ought to explore next month.

18 MR. WALKER: Thank you.

19 CHAIR WEISSER: Okay. I want to try to
20 compress the nature of the question so we don't revisit
21 this area which we're clearly going to talk about next
22 month. Other subject matters that were addressed that
23 should be brought up? New area, Larry?

24 MR. ARMSTRONG: Sort of, kind of.

25 CHAIR WEISSER: Sort of, kind of? Come up.

1 MR. ARMSTRONG: Is this the time that's been
2 assigned to public comments?

3 CHAIR WEISSER: This is it.

4 MR. ARMSTRONG: Oh, this is it, so I can talk
5 about anything I want, then.

6 CHAIR WEISSER: You betcha.

7 MR. ARMSTRONG: Okay, good. Earlier there
8 was a question about ping-pong and how to possibly
9 calculate how many cars got ping-ponged. That's a
10 pretty easy calculation, it's a math deal. It's
11 100 percent of the vehicles that go to test-only that
12 fail necessarily have to ping-pong at least once, and
13 twice with the only subtraction factor in there are
14 those that now could go to Gold Shield and have an
15 after repair test, so that's the end of the math
16 problem, so it's just about that easy. The only other
17 ones are ones that somehow disappear off the scope and
18 don't ever get a test, but all of those cars have to
19 get ping-ponged, every single one of them, so it's
20 pretty easy math.

21 I'd like to remind the Committee that the
22 State of California in the form of the Air Resources
23 Board and with a signature from the State Consumer
24 Services asked the federal government could do away
25 with test-and-repair, and it wasn't the federal

1 government telling the State of California to [skip] do
2 anything for that to happen, but it didn't.

3 Mr. John, I would urge you to read the
4 statutes. You can go to any BAR office, get one of
5 their little handbooks, go look up the statutes. What
6 it says is vehicles subject to testing, okay, this
7 percentage of vehicles subject to testing, and if you
8 exempt something it's not subject to testing, so we
9 have been openly and actively committing fraud in the
10 State of California for all of the years since they
11 started doing that game. It's obvious English, all you
12 have to do is just read what it says, and it says
13 'subject to testing.' And Ms. Sylvia came up here and
14 said those cars are exempt, so if they're exempt
15 they're not subject to testing and so they should be
16 eliminated, so taking that as a multiplying factor is
17 absolute ludicrous baloney and always has been.

18 The other thing is, if you go and look at the
19 statute, you can see that the makeup of these vehicles
20 that are supposedly supposed to go to test-only can be
21 made up, a large portion can be made up of volunteers,
22 and the State of California does not count those at
23 all, they only count the ones that they mandate.

24 CHAIR WEISSER: Thank you.

25 MR. ARMSTRONG: We've been committing fraud

1 all along.

2 CHAIR WEISSER: Fraud is a criminal charge
3 and –

4 MR. ARMSTRONG: Yes, sir, and I agree with
5 that statement.

6 CHAIR WEISSER: So I believe if there's a
7 crime going on, that somebody ought to report it.

8 MR. ARMSTRONG: I have asked numerous times,
9 and I'd like to see that one go. Let's go get
10 everybody under oath and let's go talk about this
11 thing. Sounds real easy.

12 CHAIR WEISSER: Are there others questions or
13 comments anybody in the audience would like to make?
14 Please.

15 MR. ZOOK: Dan Zook, Speedy Oil Change and
16 Tune-up and I'd just like to make one final comment
17 before the end of the day and that's to further clarify
18 some of the math that was thrown out earlier and also
19 to dovetail a little bit off what one of my illustrious
20 competitor said back there, Quality, earlier, that we'd
21 just like the opportunity to compete.

22 As it stands now, the government regulates
23 who the majority of smogs are sent to by this test-only
24 percentage. When it gets down to the simple math,
25 36 percent are mandated to test-only of, as you put it

1 earlier, a much smaller number. So in essence it's
2 50 percent gets mandated to test-only.

3 Now, that does not count the general public
4 that has the opportunity to go to test-only on their
5 own, so that would tell you in simple math somewhere
6 over 50 percent, which is now the majority of all
7 available testable vehicles go to test-only stations.

8 If test-only stations comprise roughly 1500
9 in the state, and test-and-repair comprise almost 6,000
10 in the state, that means test-only not only have the
11 majority of the business, but they have much fewer
12 competition to share that business with.

13 So at the end of the day, it would behoove
14 all the test-and-repair facilities to become test-only
15 facilities; is that not correct, using the simple math
16 formula?

17 MEMBER DECOTA: It would be interesting to
18 see who would fix the cars then.

19 MR. ZOOK: So again it levels the playing
20 field. My buzzer hasn't gone off yet for my time.

21 CHAIR WEISSER: That's because we have a
22 short timer over there neglecting it.

23 MR. ZOOK: So if that were the case, the
24 playing field would be level, we'd just all be
25 competing with each other but we'd all be just

1 test-only facilities and there would be nobody left to
2 repair the vehicles. (Inaudible).

3 CHAIR WEISSER: Well stated. Mr. Hotchkiss.

4 MEMBER HOTCHKISS: This is a question for
5 you, so don't go away.

6 MR. ZOOK: Okay.

7 MEMBER HOTCHKISS: And it may be a little bit
8 off topic but it just struck me as you were talking
9 about [skip] differences between [skip] repair stations
10 now are subject to [skip] local regulations about where
11 they can locate due to the environmental hazards they
12 have. So if you have a test-only that isn't doing any
13 repairs, do you know are they subject to the same
14 strict regulations as the test-and-repair shops?

15 MR. ZOOK: They're not. In fact, and I know
16 it's another matter, but to the best of my knowledge,
17 they're not subject to that. They can go into lesser
18 types of facilities and employ a lower grade of
19 technician without the education and experience, so
20 it's much easier to open one of those type of
21 facilities.

22 CHAIR WEISSER: I think the permitting
23 depends upon the precise sorts of chemicals you're
24 using, and if you're pumping gas that's one thing, if
25 you're not. I mean, there's a whole variety of things

1 that will affect the permits at the local and state
2 level.

3 Are there any other questions? Chris. You
4 are our last questioner today, Chris, or commentor.
5 Advisor. Consultant. And comrade.

6 MR. ERVINE: (Inaudible) I've pulled a
7 Dennis.

8 MEMBER DECOTA: Thanks, Chris.

9 MR. ERVINE: You're welcome. I really have.
10 Anyhow, when test-only was originally brought into the
11 program, the reason that we had test-only was so that
12 they would have no financial interest in whether that
13 vehicle passed or failed smog. They saw that customer
14 once every two years if the customer came back to them
15 at all.

16 Bureau of Automotive Repair has since skewed
17 everything around to the point where the only
18 difference between a test-only and a test-and-repair is
19 that a test-only cannot repair that vehicle if it fails
20 smog. They can do emissions repairs right up until the
21 very second that they hit the buttons on that computer
22 and start the smog program. They can do any kind of
23 repairs to that car that they want.

24 We've lost what test-only is all about, and
25 test-only is all about being unbiased, having no

1 interest whatsoever in whether that vehicle passes or
2 fails, and the truth of the matter is they have a much
3 larger stake in this than test-and-repair does, because
4 if that vehicle fails smog, it's got to go to a
5 test-and-repair and they may lose that customer forever
6 because that customer went to another shop that treated
7 them a lot better and did a lot better repairs at a
8 much lower cost.

9 So the test-onlys have a much larger stake in
10 this program as far as being biased than the
11 test-and-repair industry does, and that's what we have
12 to take into consideration here is what this program
13 has morphed into. And it is not the program that it
14 was originally. Originally when this program started,
15 Bureau of Automotive Repair stood up there in front of
16 hundreds of us and told us that a test-only facility
17 owner could have absolutely no financial interest in
18 any automotive-related business within a 50-mile
19 radius. I specifically asked them does that mean a
20 parts house or a car wash, and they said no
21 automotive-related business whatsoever.

22 Rules have changed, and that's what we need
23 to get on is where are we going with this program and
24 why are we where we're at now?

25 CHAIR WEISSER: Thank you, Chris. I also was

1 under the impression that if you had a test-only
2 business you couldn't do repairs, and I'm surprised to
3 hear that in fact you are allowed to do repairs on
4 cars. I didn't think that was the case.

5 MR. ERVINE: Dick Ross stood up here about
6 four or five months ago and told this Committee that
7 test-only could do any type - they could have a general
8 auto repair shop in the same facility owned by the same
9 owner, and I questioned on it and said that that's not
10 the way it started out, and they said, oh no, that's
11 the way it's always been.

12 CHAIR WEISSER: There's a gentleman in the
13 back of the room that looks suspiciously like Chief
14 Ross. Perhaps [skip] share [skip] associated with
15 [skip]

16 MR. ROSS: - the transcript [skip] making
17 that statement, because if it omitted the word 'not'
18 then it might be accurate, because the code does not
19 allow anybody to do that. And Chris's comment may be
20 accurate, maybe some do it, but it is not according to
21 the law, and those are things we try to enforce.

22 Also, I would like to compliment
23 Mr. Hisserich. He did very accurately depict the
24 manner in which the 36 percent is identified and has
25 been done so under the guidance from the Legislative

1 Analyst office for a number of years, and so there are
2 no unique changes in that at this point in time.

3 CHAIR WEISSER: From the Legislative Analyst
4 office, they wrote --

5 MR. ROSS: The people who interpret --

6 CHAIR WEISSER: They wrote an opinion on how
7 to interpret the legislation?

8 MR. ROSS: Yes, they have.

9 CHAIR WEISSER: Do we have that?

10 MR. ROSS: It's a public record.

11 MR. CARLISLE: (Inaudible) on that one.

12 MR. ROSS: So, but the answer to your
13 question, Mr. Chairman, was no, they are not allowed
14 to.

15 CHAIR WEISSER: Thank you very much.

16 MR. ROSS: Certain activities are not
17 considered auto repair activities according to the
18 Business and Professions Code.

19 CHAIR WEISSER: Is that a --

20 MR. ROSS: It's in the Business and
21 Professions Code, certain things do not require a
22 license to do, and oftentimes there is some overlap on
23 that. Our perspective is they should conduct no other
24 activity and just do testing. Thank you.

25 CHAIR WEISSER: Mr. DeCota?

1 MEMBER DECOTA: Chief Ross, I think I recall
2 accurately your stating that, it was said, but I think
3 the part that has not been said here is that there used
4 to be this 50-mile radius issue where a test-and-repair
5 cannot operate a test-only facility. It seems that
6 that has gone away, and that there are, and I know
7 there are, test-and-repair facilities. They may not be
8 test-and-repair facilities under the Smog Check
9 Program, but they're test-and-repair facilities that
10 operate within the same community as the owner that
11 owns and operates a test-only.

12 MR. ROSS: What is a test-and-repair station
13 that doesn't operate under the Smog Check Program?

14 MEMBER DECOTA: It doesn't do smog-related
15 repairs. It has an ARD, but it does not — it is the
16 Bureau's instructions, I believe, to the proprietor
17 that they do not do smog-related repairs at that
18 test-and-repair facility.

19 When this first came into being there was a
20 clear 50-mile radius issue and it's still today in the
21 statute that has seemed to have gone away with the
22 enhanced program, especially after the Bay Area came
23 in, where now there are shop owners that own both
24 test-and-repair ARD facilities and test-only facilities
25 in the same community. That is a drastic change in the

1 policy and that, I believe, is the issue that we're
2 talking about.

3 MR. ROSS: I'm just absorbing the
4 relationships here. There's two different examples
5 that you cited, is that correct, Mr. DeCota? Those
6 where they are not actually doing any type of emissions
7 repair work and there's an ownership interest, and then
8 there is another subset where, because they're going to
9 the enhanced circumstance, there are ownerships that
10 are within that 50-mile radius circumstance.

11 MEMBER DECOTA: That's exactly what I'm
12 saying.

13 MR. ROSS: I'd have to —

14 MEMBER DECOTA: And that seems to be a
15 dramatic change.

16 MR. ROSS: Well, I would have to say I
17 certainly don't possess the location of every
18 (inaudible) what have you, and I would like to look at
19 that circumstance.

20 We are presently working on regulations,
21 frankly, to address the issue of co-locations where
22 there's ownership except we're trying to, as we always
23 try to do, make the law perfectly clear, but we are
24 looking at that. We are not in a position to want to
25 erode that separation whatsoever.

1 Okay. Thank you, Mr. Chairman.
2 CHAIR WEISSER: Thank you, Mr. Ross.
3 Folks, that brings us to the end of today's
4 meeting. I want to thank very much everybody who
5 attended and I look forward to seeing you next month.
6 MEMBER HISSERICH: I'd like to clarify, my
7 calendar says the next meeting is -
8 MR. CARLISLE: Correct, March 21st.
9 CHAIR WEISSER: Okay. So the adjournment of
10 the meeting will I need a motion or -

11 **(Meeting Adjourned)**

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Dated March 4, 2005.

TERRI HARPER, Lead Transcriber
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